

Exhibit A

**In the Matter Of:**

**Burns vs Griffin**

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**Trevor Burns**

*April 28, 2017*

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441 LEXINGTON AVENUE  
2ND FLOOR  
NEW YORK, NY 10017

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2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK  
4 16 CV 782 (VB)

5 -----X  
6 TREVOR BURNS,

7 Plaintiff,

8 - against -

9 THOMAS GRIFFIN, MICHAEL T. NAGY  
10 MARK A. TOKARZ AND DANIEL J. SHAW.

11 Defendants.

12 -----X

10

11 April 28, 2017  
12 11:20 a.m.

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13 594 Route 216  
14 Stormville, New York

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20 EXAMINATION BEFORE TRIAL OF TREVOR BURNS,  
21 the Plaintiff herein, taken by the Defendant,  
22 held at the above time and place, before Gina  
23 Ruocco, a Shorthand Reporter and Notary Public  
24 of the State of New York.

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<p style="text-align: right;">Page 2</p> <p>1</p> <p>2 A P P E A R A N C E S:</p> <p>3 NEW YORK STATE OFFICE OF THE ATTORNEY GENERAL</p> <p>4 Attorneys for Defendants</p> <p>5 The Capitol</p> <p>6 Albany, New York 12224</p> <p>7</p> <p>8 BY: JULINDA A. DAWKINS, ESQ.</p> <p>9 EMAIL: julinda.dawkins@ag.ny.gov</p> <p>10 PHONE: (518) 776-2610</p> <p>11</p> <p>12</p> <p>13</p> <p>14 ALSO PRESENT:</p> <p>15 Tim Small, Legal Assistant</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 3</p> <p>1</p> <p>2 STIPULATIONS</p> <p>3 IT IS HEREBY STIPULATED, by and between the</p> <p>4 attorneys for the respective parties hereto, that:</p> <p>5 All rights provided by the C.P.L.R., and</p> <p>6 Part 221 of the Uniform rules for the Conduct of</p> <p>7 Depositions, including the right to object to any</p> <p>8 question, except as to form, or to move to strike</p> <p>9 any testimony at this examination is reserved; and</p> <p>10 in addition, the failure to object to any question</p> <p>11 or to move to strike any testimony at this</p> <p>12 examination shall not be a bar or waiver to make</p> <p>13 such motion at, and is reserved to, the trial of</p> <p>14 this action.</p> <p>15 This deposition may be sworn to by the</p> <p>16 witness being examined before a notary public other</p> <p>17 than the notary public before whom this examination</p> <p>18 was begun, but the failure to do so or to return the</p> <p>19 original of this deposition to counsel, shall not be</p> <p>20 deemed a waiver of the rights provided by Rule 3116,</p> <p>21 C.P.L.R., and shall be controlled hereby.</p> <p>22 The filing of the original of this deposition</p> <p>23 is waived.</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 4</p> <p>1</p> <p>2 T R E V O R B U R N S,</p> <p>3 called as a witness, having been first duly</p> <p>4 sworn by a Notary Public of the State of</p> <p>5 New York, was examined and testified</p> <p>6 as follows:</p> <p>7 EXAMINATION BY MS. DAWKINS:</p> <p>8 Q. Good morning. My name is Julinda</p> <p>9 Dawkins, the attorney for the defendants in this</p> <p>10 action which is pending in the United States</p> <p>11 Southern District of New York.</p> <p>12 The purpose of this deposition is for me</p> <p>13 to ask you questions about the incident which gives</p> <p>14 rise to your lawsuit.</p> <p>15 A. All right.</p> <p>16 Q. I would be asking you a series of</p> <p>17 questions, and the reporter will be recording your</p> <p>18 answers.</p> <p>19 A. Okay.</p> <p>20 Q. You must give verbal responses to all of</p> <p>21 the questions. If you nod to acknowledge, just</p> <p>22 follow up with a verbal response. Okay?</p> <p>23 A. All right.</p> <p>24 Q. Do you understand that?</p> <p>25 A. I understand.</p>	<p style="text-align: right;">Page 5</p> <p>1 Trevor Burns</p> <p>2 Q. If you do not understand a question,</p> <p>3 will you let me know?</p> <p>4 A. Yes.</p> <p>5 Q. If you do not hear any part of a</p> <p>6 question, will you let me know?</p> <p>7 A. Yes.</p> <p>8 Q. Unless you tell me otherwise, I will</p> <p>9 assume that you've understood and heard the entire</p> <p>10 question. Is that understood?</p> <p>11 A. Yes, it's understood.</p> <p>12 Q. If you realize during the deposition</p> <p>13 that an earlier answer was inaccurate or incomplete,</p> <p>14 will you let me know, and I'll let you -- if you</p> <p>15 realize that the answer was incomplete or</p> <p>16 inaccurate, let me know, and we will give you a</p> <p>17 chance to go back and correct that. Do you</p> <p>18 understand?</p> <p>19 A. Yes, I understand that.</p> <p>20 Q. If you realize -- do you understand that</p> <p>21 you may review the transcript that will be generated</p> <p>22 by the court reporter from your testimony today?</p> <p>23 A. Yes.</p> <p>24 Q. Do you understand that after your</p> <p>25 review, you may correct any errors you find in the</p>

<p style="text-align: right;">Page 14</p> <p style="text-align: center;">Trevor Burns</p> <p>1 Q. Was it before or after breakfast or</p> <p>2 something else?</p> <p>3 A. It was, like, during breakfast.</p> <p>4 Q. And, as you sit here today, are you</p> <p>5 suffering any side effects or any stomach pains or</p> <p>6 anything to that effect?</p> <p>7 A. Depends. If I move a certain way, I may</p> <p>8 feel the pain, but other than that, no.</p> <p>9 Q. And you said you took high blood</p> <p>10 pressure medication?</p> <p>11 A. Yes.</p> <p>12 Q. When did you take it?</p> <p>13 A. This morning.</p> <p>14 Q. What time?</p> <p>15 A. Probably about ten-something, a little</p> <p>16 bit before I came down here.</p> <p>17 Q. And what was the dosage that you took?</p> <p>18 A. 10 milligrams.</p> <p>19 Q. How long have you been on this high</p> <p>20 blood pressure medication?</p> <p>21 A. They just, about -- say about a month,</p> <p>22 if that.</p> <p>23 Q. Had you ever taken this medication</p> <p>24 before a month ago?</p> <p>25</p>	<p style="text-align: right;">Page 15</p> <p style="text-align: center;">Trevor Burns</p> <p>1 A. Not this particular medication, but they</p> <p>2 gave me something awhile ago. Then I just stopped</p> <p>3 taking it because my pressure went down. So it just</p> <p>4 suddenly risen back up, so I take it again.</p> <p>5 Q. In the time frame that you've been</p> <p>6 taking this medication, have you had any side</p> <p>7 effects?</p> <p>8 A. No, not that I know of.</p> <p>9 Q. And you said you took aspirin?</p> <p>10 A. Yes.</p> <p>11 Q. What dosage did you take?</p> <p>12 A. Small doses. I don't recall the exact</p> <p>13 amount of dosage.</p> <p>14 Q. And when did you take it?</p> <p>15 A. This morning, last night.</p> <p>16 Q. And what did you take the aspirin for?</p> <p>17 A. I guess like cholesterol and the blood,</p> <p>18 stuff like that, too much.</p> <p>19 Q. Have you suffered any side effects from</p> <p>20 taking the aspirin?</p> <p>21 A. No, not that I'm aware of.</p> <p>22 Q. Do you believe taking ibuprofen will</p> <p>23 affect your testimony, your ability to testify</p> <p>24 today?</p> <p>25</p>
<p style="text-align: right;">Page 16</p> <p style="text-align: center;">Trevor Burns</p> <p>1 A. No.</p> <p>2 Q. And do you think the high blood pressure</p> <p>3 medication you took will affect your ability to</p> <p>4 testify here today?</p> <p>5 A. No.</p> <p>6 Q. Do you believe that the aspirin you took</p> <p>7 will affect your ability to testify here today?</p> <p>8 A. No.</p> <p>9 Q. Were there any medication that you were</p> <p>10 supposed to take but did not take?</p> <p>11 A. No.</p> <p>12 Q. Have you consumed any alcohol within the</p> <p>13 last 24 hours?</p> <p>14 A. No.</p> <p>15 Q. Did you consume any other intoxicating</p> <p>16 substances in the past 24 hours?</p> <p>17 A. No.</p> <p>18 Q. Other than high blood pressure, do you</p> <p>19 presently have any other medical conditions?</p> <p>20 A. Yes.</p> <p>21 Q. What specifically?</p> <p>22 A. I'm in pain a lot, my back, my wrists.</p> <p>23 Q. Anything else?</p> <p>24 A. Yes, my eyes. Sometimes I have</p> <p>25</p>	<p style="text-align: right;">Page 17</p> <p style="text-align: center;">Trevor Burns</p> <p>1 difficulty breathing.</p> <p>2 Q. And let's go back to your back. What</p> <p>3 specifically do you feel with regard to your back?</p> <p>4 A. My entire -- on certain movements, I</p> <p>5 have sharp -- sharp pains in my back.</p> <p>6 Q. How often do you get the sharp pains?</p> <p>7 A. Almost every day. That's why I'm taking</p> <p>8 ibuprofen.</p> <p>9 Q. When did you begin to experience that</p> <p>10 back pain?</p> <p>11 A. Some time ago, but it persisted once I</p> <p>12 got into the little incident here.</p> <p>13 Q. When you say "some time ago," can you</p> <p>14 give me a time frame?</p> <p>15 A. Couple years back.</p> <p>16 Q. What precipitated that back pain?</p> <p>17 A. I'm not absolutely sure.</p> <p>18 Q. Now, do you participate in any kind of</p> <p>19 exercise?</p> <p>20 A. Yes, per the doctor's orders.</p> <p>21 Q. What do you do?</p> <p>22 A. Calisthenics if it's not too much.</p> <p>23 Sometimes he tell me to try to lift a little</p> <p>24 weights, stuff like that. I try that occasionally</p> <p>25</p>

<p style="text-align: right;">Page 18</p> <p>1 Trevor Burns</p> <p>2 until it's too much, then I got to leave it alone.</p> <p>3 Q. When you say you lift weight, how much</p> <p>4 do you lift?</p> <p>5 A. The small -- smaller weights, the</p> <p>6 dumbbells, stuff like that.</p> <p>7 Q. About how much do -- how many pounds?</p> <p>8 A. They don't have a number on it. They</p> <p>9 just there.</p> <p>10 Q. And about how often do you do that</p> <p>11 activity?</p> <p>12 A. Actually, I kind of stopped for some</p> <p>13 time now, but off and on. I just -- my body is</p> <p>14 deteriorating.</p> <p>15 Q. So about five years ago, did you do any</p> <p>16 kind of weightlifting?</p> <p>17 A. Five years ago?</p> <p>18 Q. Five years ago.</p> <p>19 A. Yeah, occasionally.</p> <p>20 Q. About how much would you lift?</p> <p>21 A. They don't have the numbers of the</p> <p>22 amount of weights on it, so we don't really know the</p> <p>23 exact amount.</p> <p>24 Q. About how often would you lift weights?</p> <p>25 Again, five years ago?</p>	<p style="text-align: right;">Page 19</p> <p>1 Trevor Burns</p> <p>2 A. About three times a week.</p> <p>3 Q. And when you would lift weights about</p> <p>4 three times a week, what, if anything, did you</p> <p>5 experience? This is five years ago.</p> <p>6 A. Burn from the -- from the weights.</p> <p>7 Q. You said that you experienced wrist</p> <p>8 pain. Can you tell me about that?</p> <p>9 A. Yeah. Just my left wrist, when it was</p> <p>10 injured, you know, a lot of times I have sharp</p> <p>11 shooting pain up all the way up to the elbow, and</p> <p>12 it's numb fingertips and stuff like that.</p> <p>13 Q. When did you sustain the injury to the</p> <p>14 left wrist?</p> <p>15 A. The initial injury is what caused the</p> <p>16 surgery was years ago. I think it was like 1997, 8.</p> <p>17 Q. And what happened at that time? Like</p> <p>18 how did you injure it?</p> <p>19 A. I didn't injure it. I was in a</p> <p>20 situation with an officer, then it was somehow --</p> <p>21 became broken.</p> <p>22 Q. You said you had surgery on it; can you</p> <p>23 tell me exactly what was done?</p> <p>24 A. It was a resection of the left ulnar.</p> <p>25 Q. And who performed that surgery?</p>
<p style="text-align: right;">Page 20</p> <p>1 Trevor Burns</p> <p>2 A. Dr. Schwartz, orthopedic surgeon.</p> <p>3 Q. And what hospital or facility is he</p> <p>4 associated with?</p> <p>5 A. Saint Agnes.</p> <p>6 Q. Saint Agnes?</p> <p>7 A. I think so. That's the name of the</p> <p>8 hospital.</p> <p>9 Q. And after the surgery, were you given</p> <p>10 any instructions with regard to your wrist?</p> <p>11 A. I don't recall. That's quite some time</p> <p>12 ago.</p> <p>13 Q. And you mentioned sharp shooting pain;</p> <p>14 how frequently do you get that?</p> <p>15 A. Almost every day.</p> <p>16 Q. And do you have to do any kind of</p> <p>17 activity, or can you tell me about --</p> <p>18 A. At -- the doctor instructed me. He</p> <p>19 says, you know, rotate your hand a lot. Try not to</p> <p>20 put too much pressure on it. Open and close finger</p> <p>21 exercises and stuff like that.</p> <p>22 Q. When you do those exercises what, if</p> <p>23 anything, do you experience?</p> <p>24 A. Sharp pains.</p> <p>25 Q. Does the exercise help to relieve that</p>	<p style="text-align: right;">Page 21</p> <p>1 Trevor Burns</p> <p>2 sharp pain?</p> <p>3 A. Not really. Sometimes it does;</p> <p>4 sometimes it does not.</p> <p>5 Q. Have you seen a physical therapist for</p> <p>6 that wrist?</p> <p>7 A. Years ago, but now they're not allowing</p> <p>8 me to see him for whatever reason.</p> <p>9 Q. You mentioned your eyes; can you tell me</p> <p>10 what it is that's wrong with your eyes?</p> <p>11 A. Well, after the incident, I've</p> <p>12 experienced a lot of pain in my eyes, headaches. I</p> <p>13 developed some sort of infection. It was like mucus</p> <p>14 coming out of my eyes, so they administered some</p> <p>15 type of antibiotics to subside the problem that I</p> <p>16 had.</p> <p>17 Q. I see that you're wearing glasses today.</p> <p>18 How long have you worn glasses?</p> <p>19 A. About a couple of years now.</p> <p>20 Q. When you say "a couple of years," can</p> <p>21 you estimate?</p> <p>22 A. About three years.</p> <p>23 Q. And what do you use the glasses for?</p> <p>24 A. Outside, UV rays glasses, like when you</p> <p>25 go outside, they turn up, they turn dark.</p>

Page 22	Page 23
<p>1 Trevor Burns</p> <p>2 Q. But are you nearsighted, farsighted, or</p> <p>3 anything?</p> <p>4 A. No. It helps stop the pain in my eyes</p> <p>5 when I'm exposed to bright lights and stuff like</p> <p>6 that in the sun.</p> <p>7 Q. Are those prescription glasses?</p> <p>8 A. Yes.</p> <p>9 Q. Who prescribed those?</p> <p>10 A. Some eye doctor that I don't know his</p> <p>11 name.</p> <p>12 Q. And the particular glasses that you're</p> <p>13 wearing today, how long have you had those?</p> <p>14 A. About a year, if that.</p> <p>15 Q. And where were you when you got those?</p> <p>16 Were you at this facility?</p> <p>17 A. I was at the facility, yes.</p> <p>18 Q. And previous to that, where did you get</p> <p>19 your glasses from?</p> <p>20 A. The street.</p> <p>21 Q. Now, you mentioned that you get</p> <p>22 headaches; can you tell me about that?</p> <p>23 A. Every day I get a lot of headaches,</p> <p>24 pounding headaches, and at times, it's unbearable,</p> <p>25 but the medication sometimes helps, but it's like</p>	<p>1 Trevor Burns</p> <p>2 shocking, pounding headaches constantly.</p> <p>3 Q. When did you start experiencing those</p> <p>4 headaches?</p> <p>5 A. I had them off and on years ago, but</p> <p>6 more so after the incident.</p> <p>7 Q. And you mentioned that infection in your</p> <p>8 eyes; was it both eyes, one, or something else?</p> <p>9 A. No, both eyes. Yeah.</p> <p>10 Q. And can you tell me how long that</p> <p>11 infection persisted?</p> <p>12 A. Initially I believe a couple of days,</p> <p>13 and then they issued me some type of antibiotics.</p> <p>14 It subsided the infection, and then it reoccurred</p> <p>15 again, so the doctor offered me the antibiotics</p> <p>16 again. Then it went away.</p> <p>17 Q. And when you say antibiotics, how did</p> <p>18 you take those? Was it oral?</p> <p>19 A. No. I had to take some type of eye</p> <p>20 drops five times a day.</p> <p>21 Q. So it was a liquid that was --</p> <p>22 A. A liquid that was dropped into the eye.</p> <p>23 Q. And the first time, you said, after two</p> <p>24 days it went away, or something else?</p> <p>25 A. After a few days. I'm not absolutely</p>
Page 24	Page 25
<p>1 Trevor Burns</p> <p>2 sure.</p> <p>3 Q. When you say "a few," I'm trying to get</p> <p>4 an estimate. Was it a week? Was it --</p> <p>5 A. Yeah, I can't give you a precise answer</p> <p>6 because I don't know the exact date -- amount of</p> <p>7 days unless I, you know, use the documents to</p> <p>8 recall.</p> <p>9 Q. And then you mentioned that it</p> <p>10 reoccurred. Can you tell me how much time elapsed</p> <p>11 between when it went away the first time and then it</p> <p>12 reoccurred?</p> <p>13 A. Probably a couple of weeks to a month or</p> <p>14 so.</p> <p>15 Q. And then when -- the second time you</p> <p>16 went under antibiotics, did it completely clear it</p> <p>17 up?</p> <p>18 A. Yes.</p> <p>19 Q. And since that time, have you had any</p> <p>20 reoccurrence?</p> <p>21 A. No.</p> <p>22 Q. Now, you mentioned -- can you tell me</p> <p>23 what exactly the infection was?</p> <p>24 A. I don't know what it was. The doctor is</p> <p>25 the one that probably be more precise. I don't --</p>	<p>1 Trevor Burns</p> <p>2 Q. Can you describe what happened with</p> <p>3 regard to the eyes? Did they become discolored,</p> <p>4 dizzy, or something else?</p> <p>5 A. No. I was -- I mean, my vision was</p> <p>6 obviously blurry, you know, my eyes were swelling up</p> <p>7 a bit, and it was like some white stuff coming out,</p> <p>8 some, like, mucus or pus or something like that</p> <p>9 coming out of my eyes. I went to the doctor,</p> <p>10 explained my symptoms. He looked at it. Actually</p> <p>11 it was a female doctor, Dr. Wolf, I think, and then</p> <p>12 she issued me the medication.</p> <p>13 Q. And, again, the pus and the blurriness</p> <p>14 was in both eyes?</p> <p>15 A. Yes.</p> <p>16 Q. And you said it was puffy, was that both</p> <p>17 eyes also?</p> <p>18 A. My left was more puffy than the right.</p> <p>19 They both were puffy though. One was a little more</p> <p>20 swollen up.</p> <p>21 Q. And in order to diagnose the infection,</p> <p>22 what, if anything, did the doctor do for you?</p> <p>23 A. She did an initial examination, asked me</p> <p>24 the symptoms that I was experiencing. She looked at</p> <p>25 it, and then she issued the medication.</p>

<p style="text-align: right;">Page 26</p> <p>1 Trevor Burns</p> <p>2 Q. What symptoms did you tell her you had?</p> <p>3 A. I told her I was having pain in the</p> <p>4 eyes, sharp stinging pain, my vision was blurry.</p> <p>5 And she was aware of the situation that took place,</p> <p>6 and I guess based upon her expertise, she came to</p> <p>7 the conclusion that antibiotics were the best thing</p> <p>8 for me.</p> <p>9 Q. How often did you see her about the</p> <p>10 infection to your eyes?</p> <p>11 A. I believe like once or twice, if that.</p> <p>12 Q. You mentioned difficulty breathing; can</p> <p>13 you tell me what you mean by that?</p> <p>14 A. When this guy released the gas or the</p> <p>15 chemical agents, whatever, it was a tremendous</p> <p>16 amount that I held, because we were kind of forced</p> <p>17 to sit there for a minute. And it was -- I had a</p> <p>18 significant amount of time to try to -- not a</p> <p>19 significant amount of time, a short amount of time</p> <p>20 to try to, you know, grab my breath, but it was just</p> <p>21 difficulty breathing. You know, you got chemicals</p> <p>22 all in your lungs and stuff like that.</p> <p>23 Q. Well, what would you experience? When</p> <p>24 you say "difficulty," it's not very specific.</p> <p>25 A. Yeah, like suffocating. I mean, small</p>	<p style="text-align: right;">Page 27</p> <p>1 Trevor Burns</p> <p>2 cluttered area, and they released the entire arsenal</p> <p>3 of chemicals and things. You know, you got to sit</p> <p>4 there. Obviously some sort of difficulty.</p> <p>5 Q. And do you experience difficulty</p> <p>6 breathing now?</p> <p>7 A. To a certain degree, not -- not as bad</p> <p>8 as it was before.</p> <p>9 Q. And can you tell me what exactly that</p> <p>10 you experience now?</p> <p>11 A. Sometimes just regularly walking, it's</p> <p>12 hard to breathe. I can't perform certain activities</p> <p>13 because I lose my breath quickly.</p> <p>14 Q. Have you seen anyone for the symptoms</p> <p>15 that you've just described?</p> <p>16 A. Yes.</p> <p>17 Q. Who have you seen?</p> <p>18 A. I don't know the doctor's name.</p> <p>19 Q. Is it a doctor affiliated with Green</p> <p>20 Haven?</p> <p>21 A. Yes.</p> <p>22 Q. And when was the last time you saw this</p> <p>23 doctor?</p> <p>24 A. Some time ago. I don't know the exact</p> <p>25 date.</p>
<p style="text-align: right;">Page 28</p> <p>1 Trevor Burns</p> <p>2 Q. When you say some time ago, within the</p> <p>3 past month, within the past year, something else?</p> <p>4 A. Within the past year.</p> <p>5 Q. Within the past six months?</p> <p>6 A. I don't know it was the past six months.</p> <p>7 Q. When you saw that doctor, what, if</p> <p>8 anything, did you say?</p> <p>9 A. I explained what happened, and he wrote</p> <p>10 some notes down, and that was basically it.</p> <p>11 Q. Did this doctor do anything for you?</p> <p>12 A. No.</p> <p>13 Q. Did he give you any medications?</p> <p>14 A. No.</p> <p>15 Q. Did he perform any tests?</p> <p>16 A. Aside from using a stethoscope to see my</p> <p>17 chest and my back, other than that, no.</p> <p>18 Q. At the end of that examination, what, if</p> <p>19 anything, did the doctor say?</p> <p>20 A. He didn't say anything.</p> <p>21 Q. Did you ask the doctor any questions?</p> <p>22 A. Yes.</p> <p>23 Q. What did you say? What did you ask?</p> <p>24 A. I asked him, you know, what's the</p> <p>25 problems, so and so forth. He said just drink water</p>	<p style="text-align: right;">Page 29</p> <p>1 Trevor Burns</p> <p>2 and take the medication that you received.</p> <p>3 Q. What medication are you referring to?</p> <p>4 A. The ibuprofen and a couple pills that</p> <p>5 they gave you over the counter.</p> <p>6 Q. Do you know what those pills were?</p> <p>7 A. Ibuprofen, less dosage.</p> <p>8 Q. Now, you say you lose your breath doing</p> <p>9 certain activities. Can you tell me what those</p> <p>10 activities are?</p> <p>11 A. If I walk for an extended period of time</p> <p>12 or sometimes just sitting down breathing, I have</p> <p>13 difficulty breathing.</p> <p>14 Q. And when you say walk for a certain</p> <p>15 period of time, can you tell me what that time frame</p> <p>16 is? Is it after a minute? Five minutes?</p> <p>17 A. Yeah, about five, five minutes or so.</p> <p>18 Q. And when you walk, what speed?</p> <p>19 Moderate, fast, slow, or something else?</p> <p>20 A. I'd say moderate.</p> <p>21 Q. What about climbing steps, any problems</p> <p>22 doing that activity?</p> <p>23 A. To a certain degree. Not as bad it was</p> <p>24 before. Now it's kind of lessening now.</p> <p>25 Q. What do you experience when you climb</p>

<p style="text-align: right;">Page 58</p> <p>1 Trevor Burns</p> <p>2 there. They tell you to line up in order. There's</p> <p>3 a line, and you got to stand in front of the line.</p> <p>4 So we all lined up outside the housing unit.</p> <p>5 Q. And the officer that said to line up,</p> <p>6 what was that person's name?</p> <p>7 A. I don't know who it was.</p> <p>8 Q. Did that person work on your block?</p> <p>9 A. Possibly.</p> <p>10 Q. Had you seen that officer before?</p> <p>11 A. I don't know who it was.</p> <p>12 Q. Now, after lining up, what happens next?</p> <p>13 A. Officer takes the count, wait, and then</p> <p>14 he directs us to B and C corridor.</p> <p>15 Q. And how far did you have to get to --</p> <p>16 from where you were lined up to the B and C</p> <p>17 corridor?</p> <p>18 A. About a length of a block.</p> <p>19 Q. What happened once you get to the end of</p> <p>20 that corridor?</p> <p>21 A. There's two separate gates. There is</p> <p>22 other officers that's inside the corridor. They</p> <p>23 wait until the sergeant tells them to allow us to</p> <p>24 enter the mess hall.</p> <p>25 Q. Now, did you go directly from the</p>	<p style="text-align: right;">Page 59</p> <p>1 Trevor Burns</p> <p>2 corridor into the mess hall, or is there a different</p> <p>3 route?</p> <p>4 A. Okay. There's -- there's a corridor,</p> <p>5 then there's -- it's like an area about the size of</p> <p>6 this room, and then there's another mess hall.</p> <p>7 There's a -- excuse me, there's door area where we</p> <p>8 enter the mess hall.</p> <p>9 Q. And before entering the mess hall, do</p> <p>10 you have to do anything?</p> <p>11 A. No. We just stand there and line up.</p> <p>12 Q. And once you enter the mess hall, what</p> <p>13 happens?</p> <p>14 A. The sergeant will tell the officer which</p> <p>15 side of the mess halls should we be directed to be</p> <p>16 seated.</p> <p>17 Q. Which side were you directed to on that</p> <p>18 date?</p> <p>19 A. I believe the left side.</p> <p>20 Q. Now, what happened next?</p> <p>21 A. What happens next?</p> <p>22 Q. Yeah, after you get directed to go to</p> <p>23 whatever side you're going to be on, do you get your</p> <p>24 trays?</p> <p>25 A. No, we don't get tray right there.</p>
<p style="text-align: right;">Page 60</p> <p>1 Trevor Burns</p> <p>2 Q. Okay.</p> <p>3 A. We got to line up again. We walk --</p> <p>4 walking like a oval shape. We line up, then officer</p> <p>5 calls five people at a time to get our trays.</p> <p>6 Q. And how big is the mess hall?</p> <p>7 A. It's pretty big. Figure-wise --</p> <p>8 Q. Is it just a square room?</p> <p>9 A. It's a square room, definitely.</p> <p>10 Q. What's inside the room?</p> <p>11 A. Tables, multiple tables.</p> <p>12 Q. About how many tables?</p> <p>13 A. Probably enough to sit two to three</p> <p>14 hundred people.</p> <p>15 Q. How do you know where to sit?</p> <p>16 A. When you first come to the facility,</p> <p>17 everybody got to sit at each table. Each table has</p> <p>18 eight seats, roughly eight chairs that's connected</p> <p>19 to the table. We just fill up the whole table then</p> <p>20 next to it, we got to sit next to it.</p> <p>21 Q. So the tables aren't divided by block,</p> <p>22 like certain blocks have to sit together or --</p> <p>23 A. No. They all divided by blocks.</p> <p>24 Q. So where does B-Block sit in the mess</p> <p>25 hall?</p>	<p style="text-align: right;">Page 61</p> <p>1 Trevor Burns</p> <p>2 A. It's not a specific area that we're</p> <p>3 directed to sit at. It depends on when we come into</p> <p>4 the mess hall when we go to chow. Like we go first,</p> <p>5 we directed to sit at the first row of tables, and</p> <p>6 then immediately behind us, whatever block comes in,</p> <p>7 they just fill up the seats, even if we're all at</p> <p>8 the same table, they'll fill up those seats. And</p> <p>9 then so on so forth, they just continue to fill up</p> <p>10 the seats.</p> <p>11 Q. So when you arrived at the mess hall on</p> <p>12 August 3rd, 2015, were there any other individuals</p> <p>13 in there already?</p> <p>14 A. I'm not absolutely sure, but most</p> <p>15 likely, yes.</p> <p>16 Q. About how many? Was it filled? Was</p> <p>17 it --</p> <p>18 A. No, it was nowhere near filled, but it</p> <p>19 was quite a few people in there.</p> <p>20 Q. And can you tell me what happened? Did</p> <p>21 you get your tray?</p> <p>22 A. Yes, I retrieved my tray. Then I walked</p> <p>23 down. It was like a middle aisle that you go to,</p> <p>24 either go right or you go left. I believe I went</p> <p>25 right at that time, and I sat down.</p>

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1  
2 Q. When you sat down, were there anyone  
3 else sitting at that table?  
4 A. Yes.  
5 Q. Who were those individuals?  
6 A. I don't -- I don't remember their names.  
7 Q. Were they from your block?  
8 A. Yes, some may have been from my block or  
9 some may have been from another block that was  
10 directly behind us.  
11 Q. And did you eat that morning?  
12 A. I was eating breakfast.  
13 Q. At some point, did you stop eating?  
14 A. Yes.  
15 Q. Why?  
16 A. Because a fight broke out.  
17 Q. And who was fighting?  
18 A. Two guys on the adjacent side of the  
19 mess hall.  
20 Q. When you say "adjacent," where were  
21 they?  
22 A. Toward, I believe, my left.  
23 Q. How far away were they?  
24 A. Probably like twenty feet, fifteen to  
25 twenty feet away.

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Trevor Burns

1 arrived. Can you tell me how long after the fight  
2 broke out that the officers came on the scene?  
3 A. Immediately.  
4 Q. About how many officers?  
5 A. Fifteen to twenty. Probably more than  
6 that.  
7 Q. Can you tell me the names of the  
8 officers that responded?  
9 A. No.  
10 Q. When did you first become aware that  
11 there was a fight? Was there a sound? Was there --  
12 A. It was a sound. You hear -- you know,  
13 you look, everybody turns in one direction eating,  
14 and then immediately after that, everybody turns in  
15 one direction and you hear the sound, officers are  
16 screaming "break it up." They're immediately on the  
17 scene so --  
18 Q. When you say "immediately," about how  
19 fast?  
20 A. A matter of seconds, because right next  
21 to the guys that were fighting, the officers are  
22 stationed right there. There's at least four  
23 officers on each side of the mess hall, so like a  
24 total of eight --  
25

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Trevor Burns

1  
2 Q. When you say they were fighting, can you  
3 describe what they were doing?  
4 A. Throwing punches at each other.  
5 Q. So you actually saw a punch connect?  
6 A. I didn't see a punch connect, but I knew  
7 they were fighting. Obviously there was a lot of  
8 commotion over there.  
9 Q. But prior to the officers, how did you  
10 know they were fighting?  
11 A. Everybody in the mess hall turned and  
12 looked in that direction. Guys were swinging at  
13 each other.  
14 Q. And you said that everybody was looking.  
15 What exactly did they do?  
16 A. What exactly who do?  
17 Q. The other inmates that were in the mess  
18 hall?  
19 A. Just looked at the incident.  
20 Q. Did they get up?  
21 A. No, not that I recall.  
22 Q. Did you get up when you were -- became  
23 aware that there was a fight?  
24 A. No.  
25 Q. Now, you said there were officers that

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Trevor Burns

1  
2 Q. So who --  
3 A. -- at the time.  
4 Q. What were the names of the officers  
5 stationed in the mess hall that day?  
6 A. I don't know.  
7 Q. Can you describe any of them?  
8 A. No.  
9 Q. The inmates that were fighting, do you  
10 know who they were?  
11 A. No, I don't know them.  
12 Q. Have you ever learned who they were?  
13 A. No. No.  
14 Q. Do you know those inmates? Have you  
15 seen them before?  
16 A. No.  
17 Q. So the inmates were fighting, and the  
18 officers responded. What happened next?  
19 A. They had them subdued on the ground,  
20 handcuffed them.  
21 Q. Did you see the handcuffs being placed  
22 on the inmates?  
23 A. \*\*\*It was from a little distance, but  
24 obviously the officers taking stuff off their waste  
25 and handcuffing their hands behind the back.

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<p>1 Trevor Burns</p> <p>2 Q. And were you wearing your glasses on</p> <p>3 that day?</p> <p>4 A. Yes.</p> <p>5 Q. Can you describe what else you were</p> <p>6 wearing?</p> <p>7 A. I don't recall exactly what I was</p> <p>8 wearing.</p> <p>9 Q. What were you wearing on your feet?</p> <p>10 A. I don't recall what I was wearing at</p> <p>11 that time.</p> <p>12 Q. Were you wearing a shirt?</p> <p>13 A. I was wearing a shirt.</p> <p>14 Q. Did you have anything underneath your</p> <p>15 shirt?</p> <p>16 A. T-shirt.</p> <p>17 Q. Were you wearing short sleeves, long</p> <p>18 sleeves, or something else?</p> <p>19 A. I don't recall if it was short or long</p> <p>20 sleeves.</p> <p>21 Q. Okay. And you had pants on?</p> <p>22 A. Yes. I was wearing --</p> <p>23 Q. And did you have underwear on?</p> <p>24 A. Yes.</p> <p>25 Q. And you had shoes with socks?</p>	<p>1 Trevor Burns</p> <p>2 A. I don't know whether it was shoes or</p> <p>3 boots. I know I had socks on.</p> <p>4 Q. So the inmates were placed in handcuffs.</p> <p>5 Were both inmates handcuffed?</p> <p>6 A. Yes.</p> <p>7 Q. And then what happened?</p> <p>8 A. That's when the Officer Nagy released</p> <p>9 the gas.</p> <p>10 Q. Now, how did you know it was</p> <p>11 Officer Nagy that released the gas?</p> <p>12 A. Where I was sitting, he was directly</p> <p>13 above when the gas blew?</p> <p>14 Q. And where did the gas come from?</p> <p>15 A. The ceiling.</p> <p>16 Q. And what's in the ceiling?</p> <p>17 A. What's in the ceiling?</p> <p>18 Q. Yeah. Like is there tubing? Is</p> <p>19 there --</p> <p>20 A. Oh, yeah, there are tubes. I think</p> <p>21 there are three tubes in each apparatus. I believe</p> <p>22 one, two, three, four, on each side of the mess</p> <p>23 hall. No, two on each side of the mess hall.</p> <p>24 There's about three holes in each one -- in each</p> <p>25 tube or apparatus, whatever it is, and that's where</p>
Page 68	Page 69
<p>1 Trevor Burns</p> <p>2 the gas was released out of.</p> <p>3 Q. Now, where were you with regard to these</p> <p>4 tubes? Were they directly above you or something</p> <p>5 else?</p> <p>6 A. They were a little ways behind me.</p> <p>7 Q. About -- when you say "a little ways,"</p> <p>8 what do you mean?</p> <p>9 A. A couple of rows of seats behind me.</p> <p>10 Q. And are you familiar with Officer Nagy?</p> <p>11 A. Yes.</p> <p>12 Q. And how are you familiar with him?</p> <p>13 A. Prior incident before that.</p> <p>14 Q. How long prior to August 3rd had you had</p> <p>15 this incident with Officer Nagy?</p> <p>16 A. April 16th.</p> <p>17 Q. Can you tell me about that incident, the</p> <p>18 April 16th incident?</p> <p>19 A. Just going to the yard. He asked for my</p> <p>20 identification card. Showed it to him. He told me</p> <p>21 I couldn't go outside because I was a porter. So</p> <p>22 told him that I have a constitutional right to a</p> <p>23 hour recreation. He called me a smart ass, used</p> <p>24 derogatory language. He made a couple racial slurs.</p> <p>25 He told me he beat such and such out of guys, so and</p>	<p>1 Trevor Burns</p> <p>2 so. I'm just trying to phrase it. I'm not going</p> <p>3 into detail what he said.</p> <p>4 Q. Do you recall what he said? Just as</p> <p>5 much --</p> <p>6 A. Somewhat.</p> <p>7 Q. -- detail as possible.</p> <p>8 A. Yeah, as much as I possibly can,</p> <p>9 somewhat. I don't recall word for word verbatim</p> <p>10 what he said, but I know he used some derogatory</p> <p>11 language, and, you know, he had to threaten a man to</p> <p>12 put his gloves on, so and so forth. That's just his</p> <p>13 regular.</p> <p>14 Q. Had you had any previous interaction</p> <p>15 with Officer Nagy other than that April 16th?</p> <p>16 A. No.</p> <p>17 Q. Now, you said that he was in a booth.</p> <p>18 Can you tell me where the booth is located?</p> <p>19 A. Directly above. When you enter the mess</p> <p>20 hall, it's like a door. It's like me entering in</p> <p>21 here, and the booth is directly above the door.</p> <p>22 Q. How many people in that booth?</p> <p>23 A. One person occupies the booth.</p> <p>24 Q. And on August 3rd, who was occupying</p> <p>25 that booth?</p>

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<p>1 Trevor Burns</p> <p>2 A. Officer Nagy.</p> <p>3 Q. And what happened with regard to the</p> <p>4 chemicals?</p> <p>5 A. What happened with regard to the</p> <p>6 chemicals?</p> <p>7 Q. Yeah. You said that he released</p> <p>8 chemicals.</p> <p>9 A. Yeah.</p> <p>10 Q. Where did it come from?</p> <p>11 A. It was directly behind me.</p> <p>12 Q. And when did you first become aware that</p> <p>13 the chemicals had been released?</p> <p>14 A. He actually dropped it on the officers.</p> <p>15 The officers' station is directly behind us, but I</p> <p>16 believe one or two was standing directly under it.</p> <p>17 So once that was released or he dispensed the first</p> <p>18 chemicals and start coming toward the front.</p> <p>19 Q. And how did you first become aware of</p> <p>20 it? Was it because of something someone said? Was</p> <p>21 it a smell?</p> <p>22 A. Well, you could hear it, and it was --</p> <p>23 it was coming toward the front, and it eventually</p> <p>24 got to where the table I was at.</p> <p>25 Q. At that point, what were the inmates</p>	<p>1 Trevor Burns</p> <p>2 doing that were fighting?</p> <p>3 A. They weren't fighting. They was already</p> <p>4 handcuffed.</p> <p>5 Q. Where were they? Were they still on the</p> <p>6 floor that you told me about being handcuffed or</p> <p>7 something else happened?</p> <p>8 A. The last I recalled, they was</p> <p>9 handcuffed, and then he immediately released the</p> <p>10 gas. Then all my attention went toward finding out</p> <p>11 where that gas was coming from.</p> <p>12 Q. Just so we're clear, the first time you</p> <p>13 became aware of the gas was because you heard</p> <p>14 something?</p> <p>15 A. You -- the cannisters drop. It was like</p> <p>16 one, two, three, four, five, six, if I recall</p> <p>17 correctly. You could hear it. You could hear the</p> <p>18 cannisters drop, clink, clink, clink.</p> <p>19 Q. When you say hear them drop, drop</p> <p>20 from --</p> <p>21 A. The ceiling.</p> <p>22 Q. To the floor or something else or -- as</p> <p>23 they're making their way down?</p> <p>24 A. As they're making their way --</p> <p>25 Q. Well, I'm trying to get an</p>
Page 72	Page 73
<p>1 Trevor Burns</p> <p>2 understanding.</p> <p>3 A. No. No. No. I just -- I'm not trying</p> <p>4 to be --</p> <p>5 Q. Okay.</p> <p>6 A. When they hit the floor, when the</p> <p>7 cannisters actually hit the floor, that's when I</p> <p>8 heard the sound. And when I looked back and I see a</p> <p>9 cloud of gas coming towards us.</p> <p>10 Q. What color was the gas?</p> <p>11 A. I don't recall the color. Gray smoke.</p> <p>12 Q. And once that happened, what was your</p> <p>13 reaction?</p> <p>14 A. Scared. I never been in a situation</p> <p>15 where someone dropped --</p> <p>16 Q. Did you get up? Did --</p> <p>17 A. I was trying to get up. I started --</p> <p>18 you know, eventually -- let me back up a little bit.</p> <p>19 Eventually the cloud came by our table,</p> <p>20 and it started going more so toward the entrance of</p> <p>21 the mess hall. Actually, I did try, but the officer</p> <p>22 directed us to sit back down despite, you know,</p> <p>23 coughing and my eyes tearing and stuff like that.</p> <p>24 So we stayed. It felt like pins or something in</p> <p>25 your arms, somebody sticking pins and stuff in your</p>	<p>1 Trevor Burns</p> <p>2 arms and stuff like that.</p> <p>3 Q. So did you have a physical reaction to</p> <p>4 the gas?</p> <p>5 A. Yeah.</p> <p>6 Q. When did that happen?</p> <p>7 A. Immediately. Once -- once I became</p> <p>8 exposed to it.</p> <p>9 Q. And what was the physical reaction that</p> <p>10 you experienced?</p> <p>11 A. My eyes started burning. I was coughing</p> <p>12 a lot, and my skin, I felt burning sensation and</p> <p>13 sharp pain on my skin.</p> <p>14 Q. And was there a sequence to which you</p> <p>15 felt these reactions or something --</p> <p>16 A. It just -- those were the reactions. I</p> <p>17 can't give you an exact sequence.</p> <p>18 Q. Did it affect your eyes first? Did the</p> <p>19 blurring happen, and then you felt the sensation,</p> <p>20 the pinning sensation?</p> <p>21 A. It was like all at one time basically.</p> <p>22 Q. And the other individuals that were</p> <p>23 around you, were they affected?</p> <p>24 A. Yeah, everybody.</p> <p>25 Q. And what was their reaction?</p>

<p style="text-align: right;">Page 74</p> <p>1 Trevor Burns</p> <p>2 A. I couldn't really -- I wasn't really</p> <p>3 paying attention to their reaction, but I'm assuming</p> <p>4 probably the same reaction that I experienced.</p> <p>5 Q. So between the time that the -- you</p> <p>6 heard the cannister drop and you saw the gray smoke,</p> <p>7 how long did you take to feel the reaction, to get a</p> <p>8 physical reaction?</p> <p>9 A. Immediately.</p> <p>10 Q. And then you mentioned someone telling</p> <p>11 you to sit down. Who was that person?</p> <p>12 A. One of the officers by the door.</p> <p>13 Q. What was this officer's name?</p> <p>14 A. I don't know exactly his name.</p> <p>15 Q. Can you describe what he looks like?</p> <p>16 A. Caucasian guy. I don't -- I don't</p> <p>17 recall.</p> <p>18 Q. And then what happened next? After the</p> <p>19 cannister was dropped, what happened?</p> <p>20 A. Then he -- excuse me. Then Officer Nagy</p> <p>21 pressed the rest of the chemical agent that was</p> <p>22 inside the tubes.</p> <p>23 Q. How do you know that he pressed it?</p> <p>24 A. ***I know. Obviously he's the one</p> <p>25 that's controlling it, so I'm assuming that he did.</p>	<p style="text-align: right;">Page 75</p> <p>1 Trevor Burns</p> <p>2 I don't know for a fact. I wasn't up there with him</p> <p>3 so -- and like you said, in sequence, the first</p> <p>4 chemicals that came out, then I believe seconds or</p> <p>5 within a minute or so, then all -- everything just</p> <p>6 came down.</p> <p>7 Q. And the next set of gas that came down,</p> <p>8 was that also grayish or something else?</p> <p>9 A. I don't recall exact colors.</p> <p>10 Q. So it started at the back behind you was</p> <p>11 where the gas came from?</p> <p>12 A. Yes.</p> <p>13 Q. And then did it progressively get closer</p> <p>14 or something else?</p> <p>15 A. Yes. It progressively got closer to</p> <p>16 eventually it was upon me.</p> <p>17 Q. What, if anything, could you see?</p> <p>18 A. My vision was getting blurry.</p> <p>19 Q. But was the entire mess hall covered in</p> <p>20 this gray smoke or something else?</p> <p>21 A. Yes.</p> <p>22 Q. And at some time -- at some point, did</p> <p>23 you get up from where you were sitting?</p> <p>24 A. After the second -- second</p> <p>25 dispersement -- or dispensing of the gas, that's</p>
<p style="text-align: right;">Page 76</p> <p>1 Trevor Burns</p> <p>2 when I got up.</p> <p>3 Q. What did you do when you got up?</p> <p>4 A. Just started running to the door.</p> <p>5 Everybody running, just panic.</p> <p>6 Q. Now, you mentioned a door that you came</p> <p>7 through, was that the same door that you went back</p> <p>8 out?</p> <p>9 A. Yes. There is only one door.</p> <p>10 Q. At that point, about how many -- prior</p> <p>11 to the chemical being dropped, about how many</p> <p>12 inmates were in the mess hall?</p> <p>13 A. Quite a few. I don't -- probably a</p> <p>14 couple hundred, if that, or 150, 200.</p> <p>15 Q. About how many officers were in there?</p> <p>16 A. Prior to the gas being dropped? Twenty</p> <p>17 something, thirty, because they got to respond to</p> <p>18 the incident that took place.</p> <p>19 Q. Now, the booth, you said it's elevated</p> <p>20 above the door?</p> <p>21 A. Yes.</p> <p>22 Q. And that door is located at the back of</p> <p>23 the mess hall?</p> <p>24 A. It's in the front of the mess hall.</p> <p>25 Q. The front of the mess hall?</p>	<p style="text-align: right;">Page 77</p> <p>1 Trevor Burns</p> <p>2 A. Yes.</p> <p>3 Q. So officer Nagy's viewpoint would be</p> <p>4 looking behind you?</p> <p>5 A. No. You -- actually, depends on where</p> <p>6 I'm sitting or which direction. If I'm sitting on</p> <p>7 this side of the table --</p> <p>8 Q. When you say "this side," would that be</p> <p>9 the right side, left side?</p> <p>10 A. Left side. Okay. If I'm entering the</p> <p>11 mess hall, if I'm sitting on that side looking</p> <p>12 toward the food counter, he'll be sitting directly</p> <p>13 behind me. However, if I'm on your side, on the</p> <p>14 other side, the opposite side, I would be looking</p> <p>15 directly at him.</p> <p>16 Q. And with regard to where the incident</p> <p>17 was taking place with these two inmates that were</p> <p>18 fighting, where was Officer Nagy? Was he in front</p> <p>19 of them, behind them, or something else?</p> <p>20 A. Oh, he could see -- from the -- exactly</p> <p>21 from the view where he's at, with the view where</p> <p>22 he's stationed at, he can see the entire mess hall</p> <p>23 and what's going on throughout the entire mess hall</p> <p>24 on both sides of the mess hall. I don't know</p> <p>25 whether he was in back or front of these</p>

<p style="text-align: right;">Page 78</p> <p>1 Trevor Burns</p> <p>2 individuals.</p> <p>3 Q. But he could see the entire incident?</p> <p>4 A. He could see the entire incident, yes.</p> <p>5 Q. So you said you were going out after the</p> <p>6 chemicals were dropped?</p> <p>7 A. Yeah, I was in the process of fleeing</p> <p>8 out of the mess hall.</p> <p>9 Q. Were you the only one that was exiting?</p> <p>10 A. It was -- everybody was trying -- even</p> <p>11 the officers were running out.</p> <p>12 Q. And what happened as you were running</p> <p>13 out, if anything?</p> <p>14 A. Somehow I fell, and I was trampled.</p> <p>15 Q. When you say you were trampled, can you</p> <p>16 describe what happened?</p> <p>17 A. In the process of me running out, I was</p> <p>18 overran by other guys. If -- it wasn't just me, it</p> <p>19 was some other guys that was -- that fell as well,</p> <p>20 but I know when I was running outside the mess hall,</p> <p>21 I fell on my left hand and my shoulder.</p> <p>22 Q. How did you fall?</p> <p>23 A. On my left hand and my shoulder. I</p> <p>24 fell --</p> <p>25 Q. Did you trip? Did somebody -- did you</p>	<p style="text-align: right;">Page 79</p> <p>1 Trevor Burns</p> <p>2 run over somebody?</p> <p>3 A. It's possibly a trip or run over</p> <p>4 someone. Could have possibly ran over someone, but</p> <p>5 in the process of everybody fleeing, it was just the</p> <p>6 whole bulk of everybody just running out of the mess</p> <p>7 hall.</p> <p>8 Q. And did your body actually come into</p> <p>9 contact with the ground?</p> <p>10 A. Yes.</p> <p>11 Q. Which part of your body first came into</p> <p>12 contact with the ground?</p> <p>13 A. Probably my hand.</p> <p>14 Q. Which hand? The left hand?</p> <p>15 A. Yes.</p> <p>16 Q. And you said that you fell on your left</p> <p>17 side?</p> <p>18 A. I didn't say I fell on my left side. I</p> <p>19 said I fell on my left hand.</p> <p>20 Q. So did your left side come into contact</p> <p>21 with the ground?</p> <p>22 A. Yeah. When I fell on my left shoulder,</p> <p>23 yes.</p> <p>24 Q. And then when you say "trampled," can</p> <p>25 you tell me what you mean? Did someone actually</p>
<p style="text-align: right;">Page 80</p> <p>1 Trevor Burns</p> <p>2 step on you or something else?</p> <p>3 A. Yeah. Guys running over, they trying --</p> <p>4 everybody's trying to get out of the mess hall, so</p> <p>5 guys ran -- ran on my head. They were stomping on</p> <p>6 my head, my back, my legs.</p> <p>7 Q. About how long were you on the ground?</p> <p>8 A. For a little while, not a long time, but</p> <p>9 eventually I got up and ran out to the yard.</p> <p>10 Q. Did anyone have to assist you to get up?</p> <p>11 A. It was a couple of guys. One guy in</p> <p>12 particular, I believe he kind of helped me up a</p> <p>13 little bit, pulled me out of a -- it was like a pile</p> <p>14 up. He pulled me out of there, and I got up and</p> <p>15 eventually ran.</p> <p>16 Q. When you were on the ground, what, if</p> <p>17 anything, did you experience?</p> <p>18 A. My adrenaline was flowing. Shock, pain,</p> <p>19 I had, like, a sharp pain in my back. My wrists</p> <p>20 was, like, numb at the time. I ain't got no whole</p> <p>21 bone. The whole bone is gone.</p> <p>22 Q. And the whole bone being gone is from</p> <p>23 the surgery?</p> <p>24 A. Yes. It was from the surgery in '98.</p> <p>25 Q. So when you made contact with the</p>	<p style="text-align: right;">Page 81</p> <p>1 Trevor Burns</p> <p>2 ground, did you hear anything? Did you have any</p> <p>3 broken bones or anything from that?</p> <p>4 A. Not that I recall.</p> <p>5 Q. So you were -- you made it up, right,</p> <p>6 from the ground. Then what happened?</p> <p>7 A. We proceeded to the C and D yard.</p> <p>8 Q. Now, how far away from the mess hall is</p> <p>9 the C and D yard?</p> <p>10 A. Probably about 15 and -- 20 feet.</p> <p>11 Q. So that would be a corridor that you had</p> <p>12 to go through?</p> <p>13 A. It's like a squared area. It's not</p> <p>14 actually a corridor at the time.</p> <p>15 Q. About how long is that area?</p> <p>16 A. About 15 feet, 20 feet, if that.</p> <p>17 Q. Now, the doorway to the mess hall that</p> <p>18 you described having to go through, is that a double</p> <p>19 door or --</p> <p>20 A. No, it's a single door.</p> <p>21 Q. A single door.</p> <p>22 A. Right.</p> <p>23 Q. And about how -- what's the dimensions</p> <p>24 of that doorway?</p> <p>25 A. About eight-by-six, roughly.</p>

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2 Q. So now you're through the corridor to C

3 and D yard, can you describe what's in this C and D

4 yard?

5 A. C and D yard, we call it the dirt yard,

6 because there's a lot of dirt in the yard actually.

7 They have a couple of televisions. They have about

8 three TVs. They got a shower area, a baseball

9 field, and that's basically it.

10 Q. What's the dimension of that yard?

11 A. The dimension's about four block areas.

12 Q. When you say "block," are you talking

13 about city blocks?

14 A. About -- yeah, about a city block --

15 half of a city block, actually. Make it half of a

16 city block, four different squares.

17 Q. So you get to the C and D yard, what

18 happens?

19 A. Immediately when we got out there, they

20 had a couple of officers out there. We had the

21 Lieutenant Tokarz, I think that's his name. He's

22 standing there, and the guys was coughing. I'm in

23 shock, I'm in pain, hard to breathe. Eventually we

24 directed to get on the wall.

25 Q. Now, you mentioned there were officers

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2 Tokarz?

3 A. Possibly.

4 Q. Did you see those other individuals?

5 A. No.

6 Q. Was there a captain in the yard?

7 A. No.

8 Q. So when was the first time that you saw

9 Lieutenant Tokarz after you entered the yard?

10 A. He was standing right there by the ramp.

11 Q. And did Lieutenant Tokarz say anything

12 to you?

13 A. Did he say anything to me? Directly at

14 that time, no.

15 Q. What was he doing when you entered the

16 yard?

17 A. He was standing there talking with

18 another officer. He was looking at everybody coming

19 out of the yard -- I mean, excuse me, coming out of

20 the corridor.

21 Q. So once you got into the yard, you said

22 something about going and standing someplace.

23 A. Yeah. We had to stand in a different

24 area, but guys are falling out. They're calling

25 responses. Officers in the hallway engaging with

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2 in the yard. How many?

3 A. It was quite a few officers, and they

4 had some officers in the gun tower as well.

5 Q. What were the names of the officers that

6 were in the yard?

7 A. I don't recall their names.

8 Q. You mentioned a Lieutenant Tokarz. Are

9 you familiar with him?

10 A. Yes, I know who it is.

11 Q. Had you had any interaction with him

12 prior to August 3rd?

13 A. I've seen him around the facility.

14 Q. How did you know that his name was

15 Lieutenant Tokarz?

16 A. Everybody in the jail knows his name.

17 Q. How do they know?

18 A. He's the lieutenant.

19 Q. Is there something that distinguishes a

20 lieutenant from an officer?

21 A. They had to wear white shirts, and their

22 authority figure's higher than the average officer

23 there.

24 Q. Was there any other individuals in the

25 yard that were wearing white shirts other than

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2 other individuals or they're doing something with

3 somebody else on the other side, so he's standing

4 there talking to some of his officers, but he's

5 looking at everybody who's coming out in the yard.

6 Q. Let's just backtrack a little bit about

7 after you exited the mess hall, was there any gas in

8 that area that you had to go through to get to the C

9 and D yard?

10 A. Yeah, there was gas in that area.

11 Q. And then when you exited that area to

12 get into the yard, was there any gas in the yard?

13 A. In the yard? Not that I -- I don't,

14 think so.

15 Q. Where was the last place that you

16 experienced any of the gas?

17 A. In C and D corridor.

18 Q. When you got outside, can you tell me

19 what it is, if anything, that you felt?

20 A. I was -- I had a lot of difficulty

21 breathing. My arm was in extreme pain. My back,

22 you know, I had grueling back pain. My eyes, I

23 couldn't really see that well, but I was just hoping

24 that hopefully I could see somebody and they could

25 just direct me to medical so I could get some

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2 attention.

3 Q. And you said your arm, you had

4 difficulty with your arm. That was your left arm?

5 A. Yes.

6 Q. So you got to -- did you go onto the

7 wall?

8 A. I didn't go onto the wall until Tokarz

9 actually directed -- the officers tell us to get on

10 the wall.

11 Q. So when you first got out into the yard,

12 what did you do?

13 A. I was walking near the phone areas.

14 There's, like, some phones directly when you come

15 out to the yard. So I'm walking to there. I'm

16 trying to stand up right. He's -- Tokarz was

17 talking to a officer, and he's directing him certain

18 things at that time. I wasn't actually sure what he

19 was doing at that particular moment.

20 Q. So about how long were you in the yard

21 before you were directed to the wall?

22 A. Probably, if that, a minute. If that,

23 or less than that.

24 Q. Then what was the instruction that you

25 were given?

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2 A. At that time, it wasn't that many.

3 Q. When you say "it wasn't that many" --

4 A. It was only a few. We have two --

5 actually two yards. So they were directing some

6 people to go over to A and B yard. That's the yard

7 directly across from the yard that I was at, and

8 some people were directed to go to the C and D yard.

9 Q. When you say a few, are you talking

10 about 50? Are you talking about 10?

11 A. At that time, it was way less than 50.

12 It wasn't that many people. You had people going

13 down the hallway toward the gym. I believe that's D

14 block -- excuse me, D-Block corridor. I can't give

15 you approximate of how many people was there. It

16 wasn't that many, though, at the time.

17 Q. Did you get on the wall?

18 A. Yeah, they got the guns pointed at us.

19 Of course I'm going to get on the wall.

20 Q. And when you say you got on the wall,

21 can you tell me what is it that you did?

22 A. I just stood up against the wall.

23 Q. Were you standing with your back to the

24 wall?

25 A. No. I had -- he tell us -- directing --

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2 A. The lieutenant was directing other

3 officers to tell us to get on the wall, and then

4 he's yelling at the guy in the tower, the guy that

5 was pointing the gun at us. I don't know exactly

6 what he was saying at the time though.

7 Q. Did you hear what he was saying?

8 A. I don't know -- no, I didn't hear

9 exactly what he was saying to the guy in the tower

10 at that time.

11 Q. So an officer told you to get on the

12 wall?

13 A. Officer -- Lieutenant -- excuse me,

14 Lieutenant Tokarz that was directing the officers to

15 tell us to get on the wall. "Tell them to get on

16 wall. Tell them to get on the wall. You, over

17 here." He's directing all the traffic right there.

18 Q. So he was generally just telling the

19 officers what to do?

20 A. He's -- in the process, he was telling

21 us as well, "Guys get on the wall. You tell them to

22 get on wall. Get on the wall," so and so forth, and

23 he's basically directing everything.

24 Q. And about that time, how many

25 individuals -- how many inmates were in the yard?

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2 the officer tell us to put our hands on the wall,

3 and so, you know, we cheat a little bit, put our

4 hands this way and just wait until further

5 direction.

6 Q. So when you say you put your hands on

7 the wall, I'm not familiar with that.

8 A. I know that.

9 Q. So you have to explain it, what it is

10 that you mean.

11 A. Some -- it depends, like, if you're

12 going through a serious search, they'll tell you to

13 put your hands high, flat, and they'll spread you

14 out. But under these circumstances, they just

15 wanted everybody basically facing the wall. He

16 directed everybody to, like, put your hands on the

17 wall, and that's basically what we had to do.

18 Q. About how many people was on the wall?

19 A. I wasn't paying attention. I was

20 worried more so about my health.

21 Q. While you were on the wall when you

22 first got there, what, if anything, were you

23 experiencing?

24 A. I was in -- for one, I was in shock.

25 With respect to the incident, like I said, I never

<p style="text-align: right;">Page 90</p> <p>1 Trevor Burns</p> <p>2 been in nothing like that. I was in excruciating</p> <p>3 pain. I mean, I never had chemicals on me, then</p> <p>4 they didn't give us no medical attention or</p> <p>5 directive to do anything at the time. So I had a</p> <p>6 lot of sharp, stinging pains on my skin, my neck, my</p> <p>7 eyes. My arm was numb, and there was sharp shooting</p> <p>8 pain up to my elbow. Then my back, you know, it was</p> <p>9 a difficult situation thoroughly for me personally</p> <p>10 at the time.</p> <p>11 Q. Now, you mentioned sharp, shooting pain</p> <p>12 in your arms. Does that help you recall whether or</p> <p>13 not you were wearing short sleeves or long sleeves</p> <p>14 that day?</p> <p>15 A. No.</p> <p>16 Q. How long were you on that wall?</p> <p>17 A. About an hour, probably more than that.</p> <p>18 Q. And during the time that you were on</p> <p>19 that wall, did these symptoms that you described</p> <p>20 change?</p> <p>21 A. No. They was consistent.</p> <p>22 Q. And what happened -- or how did you come</p> <p>23 off the wall?</p> <p>24 A. The lieutenant, like I said, he was the</p> <p>25 one that was in control of everything. He was</p>	<p style="text-align: right;">Page 91</p> <p>1 Trevor Burns</p> <p>2 directing officers what to do, what to say, when to</p> <p>3 do it, as well as the inmates that was on the wall</p> <p>4 at the time. I believe he told us to come off the</p> <p>5 wall and go to -- proceed to A and B yard.</p> <p>6 Q. Now, you said you were on the wall for</p> <p>7 about an hour. During that time, did you speak to</p> <p>8 anyone?</p> <p>9 A. I know I was yelling at him asking him,</p> <p>10 and they telling me to turn around, turn around,</p> <p>11 face the wall in an aggressive manner. And he's</p> <p>12 looking, and he's "Turn him around, turn him</p> <p>13 around." He referred to me as well. Referred to me</p> <p>14 and another guy that was, like, a foot away from me.</p> <p>15 Q. What do you mean "in an aggressive</p> <p>16 manner"?</p> <p>17 A. Okay. When we initially came out, like</p> <p>18 I said, the lieutenant directed the officers to tell</p> <p>19 us to get on the wall. Now, he's standing right</p> <p>20 there. He see everybody that's coming out. He see</p> <p>21 the condition everybody's in.</p> <p>22 He tells us, "Get on the wall. Get on</p> <p>23 the wall." So Eventually we get on the wall. Then</p> <p>24 he yells at the guy in the tower and he tells the</p> <p>25 officer, "Anyone take their hand off, you take them</p>
<p style="text-align: right;">Page 92</p> <p>1 Trevor Burns</p> <p>2 down." So this guy in the tower's pointing the AR</p> <p>3 15 at us. All of this on tape, everything I'm</p> <p>4 saying. They were recording the whole incident.</p> <p>5 Officers out there with a tape recorder, and we came</p> <p>6 out of the door, and there was an officer --</p> <p>7 actually two that was in the tower that had the tape</p> <p>8 recorder that was pointing at everybody that was</p> <p>9 coming out of the corridor.</p> <p>10 Q. What are the names of these officers?</p> <p>11 A. I don't know their names.</p> <p>12 Q. Can you give me a description?</p> <p>13 A. Not at this moment. Maybe if I see him</p> <p>14 again, I can get his actual name though.</p> <p>15 Q. And you said they had video cameras?</p> <p>16 A. Yeah, they have video cameras in the</p> <p>17 yard. They have video cameras in the mess hall, and</p> <p>18 had one in the tower, and they had another guy with</p> <p>19 a hand-held camera as everybody was exiting the</p> <p>20 corridor going to -- what's that -- the C and D</p> <p>21 yard.</p> <p>22 Q. And were these cameras working on that</p> <p>23 day?</p> <p>24 A. Yes, I'm assuming so. I guess so, they</p> <p>25 were.</p>	<p style="text-align: right;">Page 93</p> <p>1 Trevor Burns</p> <p>2 Q. Now, you were going to tell me about the</p> <p>3 aggressive manner. What do you mean by that term?</p> <p>4 A. It's about 15 to 20 to 25 officers</p> <p>5 standing behind us. They got their sticks out.</p> <p>6 And, you know, they pushing -- some guys are being</p> <p>7 pushed up against a wall.</p> <p>8 Q. Were you pushed up against the wall?</p> <p>9 A. No, I wasn't pushed up against the wall.</p> <p>10 Q. So when you say that Lieutenant Tokarz</p> <p>11 was telling people to get on the wall in an</p> <p>12 aggressive manner, what are you referring to?</p> <p>13 A. Aggressive manner?</p> <p>14 Q. Yeah. Are you referring to his tone?</p> <p>15 A. His tone. Actually, his tone, and the</p> <p>16 reaction of the officers that he was directing to</p> <p>17 tell us to do certain actions that he wanted done.</p> <p>18 Q. And what was the action that he directed</p> <p>19 at the inmates? What did he tell the inmates to do?</p> <p>20 A. He was telling us to get on the wall.</p> <p>21 But -- I mean, we were on the wall, but we</p> <p>22 experiencing difficulty breathing, pain. He didn't</p> <p>23 say sit down, you know, everybody sit there,</p> <p>24 whatever. He's telling us to stand up and face the</p> <p>25 wall, put our hands on the wall. Then he's telling</p>

<p style="text-align: right;">Page 94</p> <p>1 Trevor Burns</p> <p>2 the guy in the tower with the gun pointed at us that</p> <p>3 if we take our hands off the wall, take them down.</p> <p>4 So obviously that's a sign of aggression, you know,</p> <p>5 for someone that's just going to eat breakfast.</p> <p>6 Q. And how do you know that Lieutenant</p> <p>7 Tokarz knew what the individuals were experiencing?</p> <p>8 A. How did I know?</p> <p>9 Q. How do you know that?</p> <p>10 A. I can't know it personally. I mean, to</p> <p>11 be honest, I don't know personally what he knew as</p> <p>12 far as -- but I know certain things were brought to</p> <p>13 his attention that he could have probably took a</p> <p>14 different course of action.</p> <p>15 Q. What things were brought to his</p> <p>16 attention?</p> <p>17 A. The fact that guys were trying to tell</p> <p>18 him, such as myself, that, yo, I wanted to see a</p> <p>19 nurse.</p> <p>20 Q. Did you speak directly to Lieutenant</p> <p>21 Tokarz?</p> <p>22 A. I didn't -- put it like I didn't speak</p> <p>23 directly to him, but the officers behind me that had</p> <p>24 the stick out, I'm saying I want to see a nurse.</p> <p>25 He's standing not too far away from me.</p>	<p style="text-align: right;">Page 95</p> <p>1 Trevor Burns</p> <p>2 Q. What's not too far away?</p> <p>3 A. Couple feet, probably like five, six</p> <p>4 feet, like that.</p> <p>5 Q. And what was going on at the time you</p> <p>6 were saying this to the officer that was standing</p> <p>7 behind you?</p> <p>8 A. You have different officers standing</p> <p>9 behind other individuals telling guys to face the</p> <p>10 wall. They have a few nurses that came that took a</p> <p>11 guy to -- it was so much that was going on. It's</p> <p>12 too much to try to --</p> <p>13 Q. And were there still inmates coming out</p> <p>14 from the mess hall?</p> <p>15 A. I'm in the yard. I can't see the --</p> <p>16 couldn't see.</p> <p>17 Q. So during that time that you were on the</p> <p>18 wall, what exactly did you see?</p> <p>19 A. As far as what?</p> <p>20 Q. With regard to what was going on with</p> <p>21 the other inmates and with the officers.</p> <p>22 A. As I stated, just the officers behind</p> <p>23 us. Guy -- like I said, guys were -- some guys were</p> <p>24 falling out, everybody had to face the wall, and</p> <p>25 that was basically what I saw to a certain degree.</p>
<p style="text-align: right;">Page 96</p> <p>1 Trevor Burns</p> <p>2 Q. At some point you came to leave the</p> <p>3 wall, and you said you were directed to the A and B</p> <p>4 yard?</p> <p>5 A. Yes.</p> <p>6 Q. How did you get from C and D to A and B?</p> <p>7 A. The lieutenant told us to walk through a</p> <p>8 corridor. It's like -- roughly like five -- between</p> <p>9 eight and nine feet of space in between, like a</p> <p>10 vestibule. You have one yard door, then another</p> <p>11 yard door, and you walk right through, walk down</p> <p>12 that ramp and you go directly to the yard.</p> <p>13 Q. What happened when you got to the A and</p> <p>14 B yard?</p> <p>15 A. Immediately when we got there, they told</p> <p>16 us to strip down, take our clothes off, and line up</p> <p>17 and walk towards the shower.</p> <p>18 Q. Did you go into the shower?</p> <p>19 A. Yeah. Yes, I went into the shower.</p> <p>20 Q. And after you came out of the shower,</p> <p>21 what happened?</p> <p>22 A. Told us to line up inside the dirt,</p> <p>23 right in front of the yard -- I mean, right in front</p> <p>24 of the block area.</p> <p>25 Q. And just before we move on, what did you</p>	<p style="text-align: right;">Page 97</p> <p>1 Trevor Burns</p> <p>2 wear into the shower?</p> <p>3 A. Nothing but my boxers.</p> <p>4 Q. You got into the shower, and you took a</p> <p>5 shower, correct?</p> <p>6 A. No. I just washed my face and my arms.</p> <p>7 That's what he was telling us to do, just hurry up,</p> <p>8 other guys got to get in, and then line up over</p> <p>9 here.</p> <p>10 Q. Now, you mentioned feeling some kind of</p> <p>11 sensations on your arms. Did you feel them anywhere</p> <p>12 else?</p> <p>13 A. Yeah, my back.</p> <p>14 Q. And the back, was that the same thing</p> <p>15 that you were feeling in your arms?</p> <p>16 A. Not exactly same thing, but it was an</p> <p>17 agonizing pain.</p> <p>18 Q. When you say "agonizing," what do you</p> <p>19 mean?</p> <p>20 A. Excruciating.</p> <p>21 Q. What do you mean by that?</p> <p>22 A. Sharp pain up my back, pain, pounding</p> <p>23 pain.</p> <p>24 Q. And during the time frame that you --</p> <p>25 from the time that you entered the C-D yard to the</p>

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<p>1 Trevor Burns</p> <p>2 block.</p> <p>3 Q. So how did you get from the entrance of</p> <p>4 B-Block to your cell?</p> <p>5 A. Walk directly up the stairs.</p> <p>6 Q. And about how long did that take you?</p> <p>7 A. Just a couple of seconds, one flight of</p> <p>8 steps.</p> <p>9 Q. Were there any inmates around?</p> <p>10 A. No. Everybody is locked in.</p> <p>11 Q. What were you wearing at that time?</p> <p>12 A. I don't recall.</p> <p>13 Q. Did you still have your underwear on?</p> <p>14 A. At what time? As far as what?</p> <p>15 Q. When you were all going from the A-B</p> <p>16 yard to B-Block, and then from the B-Block to your</p> <p>17 cell?</p> <p>18 A. All we had was -- that's it -- boxers.</p> <p>19 That's it. Everybody had boxers on. All our</p> <p>20 clothes was in one big heap.</p> <p>21 Q. Were you barefoot, or were you wearing</p> <p>22 something? Slippers? Shoes? Socks?</p> <p>23 A. ***I don't know.</p> <p>24 Q. So about what time did you arrive at</p> <p>25 your cell?</p>	<p>1 Trevor Burns</p> <p>2 A. I take a break? I don't -- I don't</p> <p>3 recall.</p> <p>4 Q. You can take a break.</p> <p>5 (Recess taken at 1:05 p.m. and resumed</p> <p>6 at 1:10 p.m.)</p> <p>7 Q. When we left off, you had arrived at</p> <p>8 B-Block, and you were going to your cell. Can you</p> <p>9 tell me what time that was?</p> <p>10 A. I don't know the exact time.</p> <p>11 Q. Was it still morning?</p> <p>12 A. Probably the afternoon or morning.</p> <p>13 Q. And you said nurses came around; can you</p> <p>14 tell me who?</p> <p>15 A. Oh, you're talking about the time when I</p> <p>16 was already in my cell?</p> <p>17 Q. Yes.</p> <p>18 A. Oh, yeah, that was probably in the</p> <p>19 afternoon.</p> <p>20 Q. And the nurse came around to the block?</p> <p>21 A. Yes, she was now on the flats.</p> <p>22 Q. What was the name of the nurse?</p> <p>23 A. I don't know her name.</p> <p>24 Q. Did you speak to the nurse?</p> <p>25 A. Yes. Everybody that was in the mess</p>
Page 104	Page 105
<p>1 Trevor Burns</p> <p>2 hall that wanted to make a complaint or whatever, we</p> <p>3 had to go to the nurse.</p> <p>4 Q. You said she was in the flats, which</p> <p>5 means the first level of --</p> <p>6 A. The first level of -- there's three</p> <p>7 levels. I was on the second level. She was on the</p> <p>8 first level.</p> <p>9 Q. What, if anything, did you report to</p> <p>10 her?</p> <p>11 A. I was explaining everything that I was</p> <p>12 going through, but she said she wasn't concerned</p> <p>13 with that. She wanted to know the effects of the</p> <p>14 gas. So, you know, I explained that to her, you</p> <p>15 know, my eyes, told her my arms, stuff like that.</p> <p>16 Told me drink water, put some cold towels on your</p> <p>17 eyes, you know, and that's it.</p> <p>18 Q. And did you drink water?</p> <p>19 A. Yes.</p> <p>20 Q. Did you put some cold towels on your</p> <p>21 eyes?</p> <p>22 A. Yeah, later on. Yes.</p> <p>23 Q. Did you do anything else for yourself</p> <p>24 during that day?</p> <p>25 A. Yeah. I was trying to wash some of the</p>	<p>1 Trevor Burns</p> <p>2 stuff off, the residue and stuff like that on my</p> <p>3 arms but --</p> <p>4 Q. When did you try to do that? After</p> <p>5 speaking to the nurse, before speaking to the nurse,</p> <p>6 or some time --</p> <p>7 A. Before and after.</p> <p>8 Q. Did that help?</p> <p>9 A. To a certain degree, yes.</p> <p>10 Q. Can you tell me to what degree?</p> <p>11 A. Small, minor. It didn't really have a</p> <p>12 significant effect on what happens.</p> <p>13 Q. Where did you get the water from? In</p> <p>14 your cell?</p> <p>15 A. Yeah, they have sinks in the cell.</p> <p>16 Q. After you saw the nurse, what happened</p> <p>17 next? What did you do next?</p> <p>18 A. I went back upstairs and locked back in</p> <p>19 the cell.</p> <p>20 Q. And did you have an interaction with</p> <p>21 anyone else that day other than the nurse?</p> <p>22 A. That entire day?</p> <p>23 Q. Yeah.</p> <p>24 A. A couple officers later on.</p> <p>25 Q. Around what time did you have that</p>

<p style="text-align: right;">Page 106</p> <p>1 Trevor Burns</p> <p>2 interaction with the officers?</p> <p>3 A. 3:00, 3:30, something like that.</p> <p>4 Q. Can you describe the interaction you had</p> <p>5 with these officers?</p> <p>6 A. No. I was -- before -- actually before</p> <p>7 that took place, I had, like, dizzy spells, and I</p> <p>8 was vomiting, and I fell unconscious, and the</p> <p>9 officer was right there. He just came over to my</p> <p>10 cell, and I got up, and he called the other officer.</p> <p>11 Q. Which officer was this that you're</p> <p>12 referring to that witnessed you being unconscious?</p> <p>13 A. He was also in the company that was</p> <p>14 actually -- I don't know his name.</p> <p>15 Q. Can you describe this officer?</p> <p>16 A. Heavyside guy.</p> <p>17 Q. What race?</p> <p>18 A. I believe he was Caucasian guy.</p> <p>19 Q. About how tall?</p> <p>20 A. I don't recall his height.</p> <p>21 Q. Facial features?</p> <p>22 A. No hair.</p> <p>23 Q. Did he have any beard, any --</p> <p>24 A. No beard.</p> <p>25 Q. What about the color of his hair?</p>	<p style="text-align: right;">Page 107</p> <p>1 Trevor Burns</p> <p>2 A. Maybe it was like reddish.</p> <p>3 Q. Had you seen this officer in that</p> <p>4 company before?</p> <p>5 A. No, he's not the steady -- he wasn't</p> <p>6 steady over there.</p> <p>7 Q. And you said that he witnessed you fall</p> <p>8 unconscious?</p> <p>9 A. He didn't actually witness me fall. He</p> <p>10 seen me when I was on the floor and stuff like that.</p> <p>11 Q. And you were on the floor in your cell</p> <p>12 or someplace else?</p> <p>13 A. Inside the cell.</p> <p>14 Q. About how long after you had arrived on</p> <p>15 B-Block did you become unconscious?</p> <p>16 A. I know I went to sleep after I washed up</p> <p>17 and stuff like that. I went to sleep. I woke up, I</p> <p>18 was having dizzy spells, my eyes was hurting,</p> <p>19 pounding headaches. I don't remember everything</p> <p>20 that happened during the process of me going out,</p> <p>21 but I know he came, he was there. There was another</p> <p>22 prisoner there standing there at the time as well.</p> <p>23 That was after -- was it before or after? I think</p> <p>24 it was after the officer came and he called Shaw.</p> <p>25 Q. And for how long were you unconscious</p>
<p style="text-align: right;">Page 108</p> <p>1 Trevor Burns</p> <p>2 for?</p> <p>3 A. I don't remember. I don't recall the</p> <p>4 amount of time.</p> <p>5 Q. Was it an hour? Fifteen minutes?</p> <p>6 A. Could have been that long, because it's</p> <p>7 like doing the mail run.</p> <p>8 Q. You said the mail run?</p> <p>9 A. Yeah.</p> <p>10 Q. What time does the mail run usually</p> <p>11 occur?</p> <p>12 A. Between 3:00, 3:30, 4:00, around that</p> <p>13 time.</p> <p>14 Q. And the time you fell unconscious, were</p> <p>15 you standing, sitting, or something else?</p> <p>16 A. I was actually on my bed sitting down,</p> <p>17 and I woke up, and that's when I started</p> <p>18 experiencing these pains, and I was throwing up and</p> <p>19 anything else, and I went out.</p> <p>20 Q. You say you went out, can you describe</p> <p>21 what happened?</p> <p>22 A. All I know is -- all I recall is I woke</p> <p>23 up. I can't give you a descriptive detail of</p> <p>24 everything with respect to that, because some stuff</p> <p>25 I don't remember.</p>	<p style="text-align: right;">Page 109</p> <p>1 Trevor Burns</p> <p>2 Q. Did you feel anything before you lost</p> <p>3 consciousness?</p> <p>4 A. Yes, I was having pounding headaches. I</p> <p>5 felt dizzy, real dizzy, and next thing I know, I</p> <p>6 woke up, and he goes, "Hey, guy, you all right?"</p> <p>7 Q. Where were you at the time he said that?</p> <p>8 Were you on the floor, on your bed, or someplace</p> <p>9 else?</p> <p>10 A. I believe I was on the floor. Between</p> <p>11 the floor and my bed.</p> <p>12 Q. And, again, you don't recall the name of</p> <p>13 this individual?</p> <p>14 A. No. This is like a year and some change</p> <p>15 ago.</p> <p>16 Q. And the other inmate, what was his name?</p> <p>17 A. Spanish guy, Latino guy. Jay, I think,</p> <p>18 something like that. I don't know. He's younger</p> <p>19 than me. I know him as Jay.</p> <p>20 Q. Was he housed on B-Block also?</p> <p>21 A. Yeah, we on the same company.</p> <p>22 Q. Where was his cell located with regard</p> <p>23 to yours?</p> <p>24 A. He's in the back, all the way in the</p> <p>25 back.</p>

<p style="text-align: right;">Page 110</p> <p>1 Trevor Burns</p> <p>2 Q. And at the time he witnessed -- how do</p> <p>3 you know that he witnessed anything that happened</p> <p>4 with regard to you?</p> <p>5 A. At the -- okay. Let me back up a bit.</p> <p>6 Now, when the officer was asking me what was wrong,</p> <p>7 I believe they were doing the phones at the time,</p> <p>8 and he was one of the guys that was supposedly on</p> <p>9 the phone. So he was right there when the officer</p> <p>10 was trying to get me up and make sure everything was</p> <p>11 okay.</p> <p>12 Q. Did he say anything to you, this inmate?</p> <p>13 A. No, not at all.</p> <p>14 Q. Did you say anything to Jay?</p> <p>15 A. No.</p> <p>16 Q. Now, you mentioned the officer asked you</p> <p>17 how you were doing, correct?</p> <p>18 A. Yes.</p> <p>19 Q. What was your response?</p> <p>20 A. I don't recall that I just said anything</p> <p>21 to him.</p> <p>22 Q. Now, you mentioned another individual,</p> <p>23 Shaw?</p> <p>24 A. Yes.</p> <p>25 Q. When did you have an interaction with</p>	<p style="text-align: right;">Page 111</p> <p>1 Trevor Burns</p> <p>2 him?</p> <p>3 A. He's -- he was the two-man. The officer</p> <p>4 called him and told him to call a medical response</p> <p>5 over the walkie-talkie, and he basically refused to</p> <p>6 do so.</p> <p>7 Q. What do you mean he refused to do so?</p> <p>8 A. He wouldn't do it. He didn't do it. He</p> <p>9 said it's not an emergency.</p> <p>10 Q. How do you know that he said that?</p> <p>11 A. I'm sitting right there when he came up</p> <p>12 on company. Now I'm in the first cell. It's a</p> <p>13 bubble. We call it a bubble. It's like a cage</p> <p>14 where the officer's stationed at. It's how they</p> <p>15 open and close the cells, stuff like that. About</p> <p>16 four, five feet away from that you have staircase.</p> <p>17 So I'm in the first cell as a porter. I can hear</p> <p>18 and see mostly everything right there.</p> <p>19 Q. And where was Shaw at the time that</p> <p>20 this --</p> <p>21 A. Right there in front of my cell.</p> <p>22 Q. When you say "right there," he was --</p> <p>23 A. Directly in front of my cell.</p> <p>24 Q. And where was the other officer?</p> <p>25 A. They both standing there directly in</p>
<p style="text-align: right;">Page 112</p> <p>1 Trevor Burns</p> <p>2 front of my cell.</p> <p>3 Q. Why didn't the other officer make the</p> <p>4 call?</p> <p>5 A. Because he's posted on my company. He</p> <p>6 can't leave his post. Now, the B man is the officer</p> <p>7 that's downstairs, and he could contact him and tell</p> <p>8 him to make the call, walkie-talkie call, or</p> <p>9 whatever.</p> <p>10 Q. So from upstairs that officer called</p> <p>11 downstairs to the B man which would be Shaw?</p> <p>12 A. Yeah.</p> <p>13 Q. And where was Shaw? Was Shaw in the</p> <p>14 bubble? Was he --</p> <p>15 A. No. There's an eight man that's in the</p> <p>16 bubble. There's another officer, which is the B</p> <p>17 man, that's the two man who sits behind like a</p> <p>18 podium, and he sits right there. So if he calls</p> <p>19 down, "Shaw come upstairs," I can basically say it</p> <p>20 that loud because he understands and come right up,</p> <p>21 'cause he's so close.</p> <p>22 Q. So Shaw was on flats, what you told me</p> <p>23 before, the first floor?</p> <p>24 A. Yes.</p> <p>25 Q. And from the second floor, that officer</p>	<p style="text-align: right;">Page 113</p> <p>1 Trevor Burns</p> <p>2 calls down verbally?</p> <p>3 A. Yes.</p> <p>4 Q. Call for medical?</p> <p>5 A. Yeah.</p> <p>6 Q. Did he say what the reason for -- why</p> <p>7 you needed medical?</p> <p>8 A. I believe it be kind of obvious. I'm</p> <p>9 like on the floor.</p> <p>10 Q. But could Shaw see that you were on the</p> <p>11 floor?</p> <p>12 A. He's standing directly -- he seen the</p> <p>13 whole situation.</p> <p>14 Q. So he calls down verbally?</p> <p>15 A. Yes.</p> <p>16 Q. Not using the walkie-talkie, correct?</p> <p>17 A. No -- no, he didn't use the</p> <p>18 walkie-talkie. I don't know if he actually had one.</p> <p>19 Q. Okay. I thought you mentioned something</p> <p>20 about a walkie-talkie. Where did that come in?</p> <p>21 A. He told Shaw to call for emergency</p> <p>22 response on the walkie-talkie. Obviously I believe</p> <p>23 that Shaw was the one that was in possession of the</p> <p>24 walkie-talkie as opposed to that particular officer.</p> <p>25 Because they have different officers that come</p>

<p style="text-align: right;">Page 114</p> <p>1 Trevor Burns</p> <p>2 through. The mail go around and the chow go around.</p> <p>3 So it varies at time.</p> <p>4 Every officer on the deck does not have</p> <p>5 a walkie-talkie. A medical response or a fight</p> <p>6 happens, certain officers are equipped with that</p> <p>7 particular thing, so I believe Shaw at the time was</p> <p>8 equipped with it.</p> <p>9 Q. And what was Shaw's response to the</p> <p>10 other officer's request?</p> <p>11 A. He wouldn't do it.</p> <p>12 Q. Did he say something verbally to</p> <p>13 indicate --</p> <p>14 A. ***medical. He's the jokester.</p> <p>15 Q. Had you had any interaction with Shaw</p> <p>16 prior to that day?</p> <p>17 A. Yes.</p> <p>18 Q. Can you describe those other</p> <p>19 interactions?</p> <p>20 A. I was actually the porter on the</p> <p>21 company, so we had to interact. He just jokes a</p> <p>22 lot, disrespectful, say -- say certain things, but</p> <p>23 other than that, he's not like the physically</p> <p>24 abusive-type officer. He's not like that.</p> <p>25 Q. So when you say big guy, what was he</p>	<p style="text-align: right;">Page 115</p> <p>1 Trevor Burns</p> <p>2 referring to?</p> <p>3 A. Me.</p> <p>4 Q. Had he used that before to describe you?</p> <p>5 A. No.</p> <p>6 Q. You heard him make that comment? You</p> <p>7 heard Shaw make the comment --</p> <p>8 A. Yes.</p> <p>9 Q. -- about the big guy?</p> <p>10 A. Yes.</p> <p>11 Q. And what, if anything, did he do next?</p> <p>12 A. He went downstairs, and he told the</p> <p>13 other officer, and I kept asking, you know, "I need</p> <p>14 to see somebody. I need to see somebody." He told</p> <p>15 the other officers that he wouldn't see me.</p> <p>16 Q. Did Shaw make any kind of contact with</p> <p>17 medical?</p> <p>18 A. No, I didn't go nowhere, so obviously</p> <p>19 not that day.</p> <p>20 Q. Did he use the telephone to make the</p> <p>21 call to medical?</p> <p>22 A. He's downstairs. I don't know. I don't</p> <p>23 think so.</p> <p>24 Q. But he then came back and said does he</p> <p>25 need it the next day, correct?</p>
<p style="text-align: right;">Page 116</p> <p>1 Trevor Burns</p> <p>2 A. He didn't say that -- he told the other</p> <p>3 officer, put down for emergency sick call tomorrow</p> <p>4 and see you tomorrow.</p> <p>5 Q. And you heard him say this to the other</p> <p>6 officer?</p> <p>7 A. Obviously it was him, because the</p> <p>8 officer's the one that conveyed the message to me.</p> <p>9 Q. How long did that interaction take from</p> <p>10 where the other officer said to Shaw make a call on</p> <p>11 the walkie-talkie to medical, and then when you got</p> <p>12 the response that put down for emergency call</p> <p>13 tomorrow?</p> <p>14 A. Less than -- probably about an hour,</p> <p>15 less than an hour or hour or so.</p> <p>16 Q. Now, what does the term "emergency sick</p> <p>17 call" mean?</p> <p>18 A. The term emergency sick call is used for</p> <p>19 emergency situations. You know, if the doctor</p> <p>20 considers it an emergency, if it's something that's</p> <p>21 significant, going through some type of problem,</p> <p>22 then you put down for the emergency sick call.</p> <p>23 Otherwise, they'll let you put down for regular sick</p> <p>24 call which is the following day. So --</p> <p>25 Q. Now, what was your expectation with</p>	<p style="text-align: right;">Page 117</p> <p>1 Trevor Burns</p> <p>2 regard to the call to medical? How long would they</p> <p>3 take to respond?</p> <p>4 A. In a matter of minutes, if that.</p> <p>5 Q. What's the process for requesting</p> <p>6 medical attention?</p> <p>7 A. The normal process, as far as medical</p> <p>8 sick call medical attention is you fill out a slip,</p> <p>9 name, cell location, and you give a description of</p> <p>10 the incident or the problem that you have or that</p> <p>11 you're feeling. They take the slip. They pull your</p> <p>12 medical records, and they call you the following</p> <p>13 day.</p> <p>14 Now, with respect to emergency sick</p> <p>15 call, if it's an emergency, what happens is they</p> <p>16 notify them over the walkie-talkie and then you're</p> <p>17 immediately seen that particular day.</p> <p>18 Q. Now, the walkie-talkie, who would that</p> <p>19 connect to? Would they connect you directly to</p> <p>20 medical or to another officer?</p> <p>21 A. I don't know. I don't know the process</p> <p>22 with that. That's like in-house stuff, security. I</p> <p>23 don't know.</p> <p>24 Q. Did you see medical again on August 3rd?</p> <p>25 A. No.</p>

<p style="text-align: right;">Page 122</p> <p>Trevor Burns</p> <p>1 Q. Do you know why Nagy dropped this gas in</p> <p>2 the mess hall?</p> <p>3 A. Just to do it.</p> <p>4 Q. What do you mean "just to do it"?</p> <p>5 A. That's just how he is. That's just the</p> <p>6 type of person that he is.</p> <p>7 Q. How do you know that's the type of</p> <p>8 person that he is?</p> <p>9 A. Everybody in the whole facility know</p> <p>10 what type of person he is.</p> <p>11 Q. And what type of person is that?</p> <p>12 A. He's a violent guy. It's just as simple</p> <p>13 as that. Just does what he do.</p> <p>14 Q. I'm trying to get an understanding of</p> <p>15 what that means.</p> <p>16 A. He abuses his authority. He's very</p> <p>17 disrespectful. He's a violent guy. He's been in</p> <p>18 most of the incidents.</p> <p>19 Q. And, again, you mentioned that other</p> <p>20 inmates think this. How do you know that?</p> <p>21 A. How do I know that?</p> <p>22 Q. Yeah.</p> <p>23 A. As far as what?</p> <p>24 Q. That other inmates think that he's a</p> <p>25</p>	<p style="text-align: right;">Page 123</p> <p>Trevor Burns</p> <p>1 violent guy.</p> <p>2 A. No, they don't think. They know. He</p> <p>3 expresses that on a regular basis. It's something</p> <p>4 that he does routinely.</p> <p>5 Q. What's the basis for your information</p> <p>6 about it?</p> <p>7 A. Me personally witnessing certain</p> <p>8 incidents and things that took place throughout the</p> <p>9 course of me being here, and things go around</p> <p>10 amongst prisoners and inmates, quote-unquote, about</p> <p>11 certain officers that's the most violent officers in</p> <p>12 the facility. He's one of them.</p> <p>13 Q. Let's go through those. You said there</p> <p>14 were certain things that you witnessed. Can you</p> <p>15 tell me what they were?</p> <p>16 A. Just regular stuff, when guy's on the</p> <p>17 wall, they might slap them, "Get out of here," "Come</p> <p>18 outside today," stuff like that.</p> <p>19 Q. How often did you witness that?</p> <p>20 A. Not often, but a certain amount of time.</p> <p>21 Q. How -- when did you witness that?</p> <p>22 A. I don't recall exact date. I know it</p> <p>23 was before April 16th when I filed my initial</p> <p>24 grievance.</p> <p>25</p>
<p style="text-align: right;">Page 124</p> <p>Trevor Burns</p> <p>1 Q. And about how many times before</p> <p>2 April 16th did you witness that?</p> <p>3 A. I just stated one time that I just</p> <p>4 stated a little while ago, but a couple of incidents</p> <p>5 that took place or things that you probably heard --</p> <p>6 well, I heard specifically.</p> <p>7 Q. Who was involved with those incidents?</p> <p>8 A. He was.</p> <p>9 Q. Anyone else that you can identify?</p> <p>10 A. Huh?</p> <p>11 Q. Anyone else that you can identify?</p> <p>12 A. No.</p> <p>13 Q. Or names of the inmates that were</p> <p>14 involved in those incidents?</p> <p>15 A. No. I know really after I filed my</p> <p>16 grievance on the 16th of April, he was accused of</p> <p>17 viciously beating one guy up in A-Block.</p> <p>18 Q. What's the name of that guy?</p> <p>19 A. I don't know his exact name. Latino</p> <p>20 guy.</p> <p>21 Q. When you say afterwards, can you tell me</p> <p>22 a date?</p> <p>23 A. I think within a matter of two or three</p> <p>24 days, if that.</p> <p>25</p>	<p style="text-align: right;">Page 125</p> <p>Trevor Burns</p> <p>1 Q. You said that was in the A-Block?</p> <p>2 A. Yeah, A-Block.</p> <p>3 Q. And what was the circumstances</p> <p>4 surrounding that incident?</p> <p>5 A. I don't know the circumstances of that.</p> <p>6 Q. What posts did Nagy hold back in 2015?</p> <p>7 A. What?</p> <p>8 Q. Posts. Like did he have a regular job?</p> <p>9 A. I think he was an A-Block officer but he</p> <p>10 worked in the yard as well.</p> <p>11 Q. And these incidents that you said you</p> <p>12 witnessed, where did they take place? Was it in the</p> <p>13 yard, the mess hall?</p> <p>14 A. Some in the mess hall, the yard,</p> <p>15 probably inside the block. I know the last incident</p> <p>16 I referred to about him being accused, Nagy being</p> <p>17 accused of using excessive force or some type of</p> <p>18 force on an individual, it was in A-Block.</p> <p>19 Q. What happened as a result of that?</p> <p>20 A. I don't know, because you don't want to</p> <p>21 give me the information.</p> <p>22 Q. Did that incident get reported to</p> <p>23 someone?</p> <p>24 A. I believe it was reported, yes.</p> <p>25</p>

<p style="text-align: right;">Page 126</p> <p>Trevor Burns</p> <p>Q. What's the basis for your belief?</p> <p>A. Just probably rumors going around the yard. The guy's mother and family contacted inspector general and filed grievances and complaints about the incident.</p> <p>Q. Have you seen a copy of the grievance or complaints?</p> <p>A. No. You're not privy to that. They got that somewhere else.</p> <p>Q. Have you spoken to the individual that was involved in that incident?</p> <p>A. No. He's beat up in the box somewhere.</p> <p>Q. Have you spoken to anyone about Nagy?</p> <p>A. Except for the complaint, family members and stuff like that and make sure there was no type of retaliation ensued.</p> <p>Q. When you say "complaint," are you referring to the lawsuit that you filed?</p> <p>A. No, not just the lawsuit.</p> <p>Q. What else did you file with regard to -- or what other complaints are you referring to?</p> <p>A. No. You --</p> <p>Q. I just want to know if you have discussed Officer Nagy with anyone else.</p>	<p style="text-align: right;">Page 127</p> <p>Trevor Burns</p> <p>A. Oh, okay. Not personally, but I wrote complaints about him to other different agencies.</p> <p>Q. What agencies did you write to?</p> <p>A. Governor's office, New York State Corrections, inspector general, FBI, prison legal services, various different people I wrote.</p> <p>Q. When did you make these complaints?</p> <p>A. Simultaneously when we filed the grievance, the initial grievance that I filed against him on April 16th, 2015.</p> <p>Q. I'm going to ask that you provide me with a copy with any of those complaints.</p> <p>A. Okay. I will try to retrieve it, but I actually wrote letters to them, but they haven't responded. So when I do get out, I'll forward you a copy of it.</p> <p>Q. So you didn't keep a copy of anything that you wrote and sent out to these individuals?</p> <p>A. I have some, but some just like through the process of me moving, and I lose a lot of information and documents. Plus they see your cell is cluttered, and they just have a reduction of property so they say you don't have active legal work, they tell you to get rid of it.</p>
<p style="text-align: right;">Page 128</p> <p>Trevor Burns</p> <p>Q. I'm going to, you know, renew my request that --</p> <p>A. Okay.</p> <p>Q. -- you provide us with whatever complaints or letters you have with regard to any of the individuals that are named in this complaint and any of the allegations regarding --</p> <p>A. All right.</p> <p>Q. -- the defendants.</p> <p>Now, what time did you go to sleep that night?</p> <p>A. I don't recall.</p> <p>Q. What time did you wake up on August 4th?</p> <p>A. Sometime early morning. I don't know the exact time.</p> <p>Q. And from the time that you went to sleep on August 3rd until the time you woke up August 4th, what, if anything, happened?</p> <p>A. I don't recall exactly what happened.</p> <p>Q. Did you have any difficulty sleeping that night?</p> <p>A. Most likely, yes.</p> <p>Q. What's the basis for your answer?</p> <p>A. I don't remember per se. I know I was</p>	<p style="text-align: right;">Page 129</p> <p>Trevor Burns</p> <p>having difficulty throughout the entire day as a result of the stuff -- you know, the injuries I sustained and things that I went through, but other than that, I can't specifically detail the difficulty that I was going through or was not going through.</p> <p>Q. Did you experience any pain while you were sleeping?</p> <p>A. If I'm sleeping, obviously I can't experience pain.</p> <p>Q. Well, did you have to wake up? Did you wake up during that night because you were experiencing any kind of pain?</p> <p>A. It's possible, but I don't actually recall it.</p> <p>Q. Did you go to breakfast the next morning?</p> <p>A. No.</p> <p>Q. When was the next time that you ate on April 4th?</p> <p>A. In the morning, I believe.</p> <p>Q. What did you eat that morning?</p> <p>A. I don't recall what I ate.</p> <p>Q. Did you go to the mess hall on</p>

<p style="text-align: right;">Page 150</p> <p>1 Trevor Burns</p> <p>2 I actually worked in the hospital for</p> <p>3 some -- I worked in physical therapy. I worked down</p> <p>4 there for like three years, and I worked in the mess</p> <p>5 hall for some time. This is before the incident</p> <p>6 took place. So I worked in the hospital, physical</p> <p>7 therapy. I worked in the mess hall. Then I worked</p> <p>8 in commissary and I was a porter since I've been</p> <p>9 there.</p> <p>10 Q. And the other jobs that you just</p> <p>11 mentioned, those all took place previously to August</p> <p>12 2015?</p> <p>13 A. Yes.</p> <p>14 Q. So since August of 2015, you've just</p> <p>15 been a porter and worked in the commissary?</p> <p>16 A. Yes.</p> <p>17 Q. Now, other than what you've told me</p> <p>18 about, are there any other physical injuries that</p> <p>19 you sustained from the incident on August 3rd of</p> <p>20 2015?</p> <p>21 A. Possibly, but I have to consult my</p> <p>22 doctor and find out. I can't, like, give you a</p> <p>23 direct answer with respect to that aside from what I</p> <p>24 explained, but I don't know what any diagnosis would</p> <p>25 entail, so I can't give you that.</p>	<p style="text-align: right;">Page 151</p> <p>1 Trevor Burns</p> <p>2 Q. But what kind of physical ailments do</p> <p>3 you attribute to occurring from the August '15 --</p> <p>4 A. In totality or just --</p> <p>5 Q. In totality.</p> <p>6 A. Go over it again. I had my back. I had</p> <p>7 my wrists. My vision, it goes in and out, sometimes</p> <p>8 it's really blurry. Pounding -- I still continue to</p> <p>9 have pounding headaches. I don't even know if I had</p> <p>10 a concussion. They never did a CAT scan or anything</p> <p>11 like that to determine the full extent of what</p> <p>12 happened, why, you know, I fall out -- why I fell</p> <p>13 out in particular.</p> <p>14 Q. When you saw the doctor immediately</p> <p>15 after the incident on August 3rd, did you tell them</p> <p>16 about the loss of consciousness?</p> <p>17 A. Yes.</p> <p>18 Q. What was the response?</p> <p>19 A. Nothing.</p> <p>20 Q. Now, we've been talking about your back.</p> <p>21 Which part of your back do you have complaints</p> <p>22 about?</p> <p>23 A. My lower back, mid area.</p> <p>24 Q. And, again, we're talking about the left</p> <p>25 wrist?</p>
<p style="text-align: right;">Page 152</p> <p>1 Trevor Burns</p> <p>2 A. Yes.</p> <p>3 Q. And the blurry vision is both eyes?</p> <p>4 A. Yes.</p> <p>5 Q. Have you seen an eye doctor?</p> <p>6 A. Someone. I don't know if he's an actual</p> <p>7 eye doctor. I don't know who he was.</p> <p>8 Q. The person that gave you your glasses,</p> <p>9 when was the last time you saw them?</p> <p>10 A. I seen him one time. I don't remember</p> <p>11 the exact date I seen him, but some time when he</p> <p>12 gave me the glasses, when I purchased them.</p> <p>13 Q. Are there any other conditions that you</p> <p>14 attribute to the August 3rd, 2015, incident?</p> <p>15 A. Aside from what I explained already? I</p> <p>16 don't know yet. It could be future injuries or I'm</p> <p>17 not absolutely sure.</p> <p>18 Q. After the August 3rd, 2015, incident,</p> <p>19 were you bleeding from anywhere?</p> <p>20 A. I don't recall.</p> <p>21 Q. Did you have any cuts on you after</p> <p>22 August 3rd, 2015, that incident?</p> <p>23 A. Not that I recall.</p> <p>24 Q. Did you have any bruises?</p> <p>25 A. Aside from when I was being trampled?</p>	<p style="text-align: right;">Page 153</p> <p>1 Trevor Burns</p> <p>2 Q. Where were those bruises?</p> <p>3 A. My body, stuff like that.</p> <p>4 Q. When you say your body, you're</p> <p>5 indicating --</p> <p>6 A. My back, my legs, the side of my head.</p> <p>7 Q. Did you actually see these bruise?</p> <p>8 A. Yes, looked in the mirror and seen them.</p> <p>9 Q. About what size was the bruises on your</p> <p>10 back?</p> <p>11 A. I couldn't see my back. The front.</p> <p>12 Q. What about the bruises on your head,</p> <p>13 what were the size of those?</p> <p>14 A. I don't know the exact size.</p> <p>15 Q. And the bruises that was on the body?</p> <p>16 A. I can't recall exact sizes.</p> <p>17 Q. Did those bruises heal?</p> <p>18 A. Yes.</p> <p>19 Q. And how long did it take for them to</p> <p>20 heal?</p> <p>21 A. I don't recall the time frame.</p> <p>22 Q. Was it one week, two weeks, a month, a</p> <p>23 year, something else?</p> <p>24 A. I don't -- I don't recall exact time</p> <p>25 frame. I know it wasn't a year, obviously, but</p>

<p style="text-align: right;">Page 154</p> <p>1 Trevor Burns</p> <p>2 possibly a week or two.</p> <p>3 Q. And did you show these bruises to the</p> <p>4 doctor when you saw him immediately after the</p> <p>5 incident?</p> <p>6 A. Possibly so.</p> <p>7 Q. And what, if anything, did that doctor</p> <p>8 do for you?</p> <p>9 A. Nothing.</p> <p>10 Q. Did you get any kind of ointments, any</p> <p>11 kind of --</p> <p>12 A. I believe so. I received a couple</p> <p>13 ointments, but I don't remember the exact name of</p> <p>14 the prescription or the ointment I received, but I</p> <p>15 know I received some type of an ointment.</p> <p>16 Q. Were you ever taken to a outside --</p> <p>17 sorry.</p> <p>18 Were you taken to an outside hospital</p> <p>19 for any of these injuries?</p> <p>20 A. No.</p> <p>21 Q. And previously to August 3rd of 2015,</p> <p>22 had you ever sustained an injury to your lower back?</p> <p>23 A. I think so, yes.</p> <p>24 Q. When?</p> <p>25 A. Years before. Before the incident.</p>	<p style="text-align: right;">Page 155</p> <p>1 Trevor Burns</p> <p>2 Q. When you say "years," two years, three</p> <p>3 years?</p> <p>4 A. Probably like ten, eleven years before</p> <p>5 that.</p> <p>6 Q. How did you injure the back then?</p> <p>7 A. I don't remember exactly cause of my</p> <p>8 injury.</p> <p>9 Q. Did you seek medical attention at that</p> <p>10 time?</p> <p>11 A. I believe so, yes.</p> <p>12 Q. And where were you at that time? Were</p> <p>13 you at Green Haven or someplace else?</p> <p>14 A. Someplace else. I don't remember where</p> <p>15 I was.</p> <p>16 Q. What was the diagnosis of what had</p> <p>17 happened to your back?</p> <p>18 A. I don't recall.</p> <p>19 Q. Did that injury heal?</p> <p>20 A. I believe so.</p> <p>21 Q. What's the basis for your belief?</p> <p>22 A. It wasn't hurting as bad.</p> <p>23 Q. Does that mean that you still experience</p> <p>24 some kind of pain?</p> <p>25 A. Not from that incident ten years ago.</p>
<p style="text-align: right;">Page 156</p> <p>1 Trevor Burns</p> <p>2 Q. Just so I understand, you don't recall</p> <p>3 how you injured your back ten years ago?</p> <p>4 A. No.</p> <p>5 Q. Was it involving a use of force, a</p> <p>6 fight, an altercation with another inmate?</p> <p>7 A. Probably a use of force. I don't know.</p> <p>8 I'm not sure.</p> <p>9 Q. And you mentioned that you had surgery</p> <p>10 on your left wrist, but since the surgery but before</p> <p>11 the August 3rd incident, had you sustained any other</p> <p>12 injuries to that wrist?</p> <p>13 A. Minor pain.</p> <p>14 Q. You mentioned problems with your eyes.</p> <p>15 Previous to August 3rd, had you experienced any kind</p> <p>16 of blurred vision?</p> <p>17 A. No, not that I recall.</p> <p>18 Q. And you mentioned that you have</p> <p>19 headaches. Previous to August 2015, had you had any</p> <p>20 problems with migraines or any kind of --</p> <p>21 A. I've had headaches back then.</p> <p>22 Q. How frequently would you have headaches</p> <p>23 back then?</p> <p>24 A. I can't give you an exact time frame.</p> <p>25 Q. When did the headaches start?</p>	<p style="text-align: right;">Page 157</p> <p>1 Trevor Burns</p> <p>2 A. I don't know the exact year.</p> <p>3 Q. Was it ten years before, five years</p> <p>4 before August 15th -- August 2015?</p> <p>5 A. It was before August 3rd, 2015. I can't</p> <p>6 give you an exact year or exact date. I don't</p> <p>7 recall, unless I'm able to, like, see my records and</p> <p>8 I can say, well, it happens on this day.</p> <p>9 Q. And what precipitated those headaches?</p> <p>10 Like what caused them?</p> <p>11 A. I got beat up by the officers.</p> <p>12 Q. When was that?</p> <p>13 A. It was upstate, one of these facilities.</p> <p>14 Q. When were you at -- upstate? When were</p> <p>15 you at upstate's facility?</p> <p>16 A. I forgot what year that was.</p> <p>17 Q. How would you classify the headache you</p> <p>18 experienced then compared to what you experience</p> <p>19 since August of 2015?</p> <p>20 A. It's -- they're a little different.</p> <p>21 Like a lot of stuff -- lately I've been forgetting a</p> <p>22 lot of stuff. I don't know. Sometimes I just --</p> <p>23 it's a little different now. I'll be sitting in the</p> <p>24 cell, and I won't recall a lot of stuff that took</p> <p>25 place beforehand.</p>

<p style="text-align: right;">Page 158</p> <p>1 Trevor Burns</p> <p>2 Q. What do you mean?</p> <p>3 A. No, I'll be sitting in the cell. I may</p> <p>4 be writing, and then I'll just like blank out, zone</p> <p>5 out, then I just forget it. It will be different</p> <p>6 times. I don't know what it is. But it's kind of</p> <p>7 like -- it's a lot different.</p> <p>8 Q. Have you sought medical attention for</p> <p>9 that?</p> <p>10 A. Yeah, but they not even -- they not</p> <p>11 going do nothing, so I ask for the treatment, but</p> <p>12 it's a waste of time.</p> <p>13 Q. What did you ask them for? What did you</p> <p>14 ask for?</p> <p>15 A. I asked to be seen or at least seen by a</p> <p>16 doctor, you know, express certain things that I was</p> <p>17 going through or -- but I guess if you're not beat</p> <p>18 up, stabbed up, excuse me, you know, terminology,</p> <p>19 then they're not going to really treat you. You</p> <p>20 just got to deal with it. That's just the way it</p> <p>21 is. That's the way life is.</p> <p>22 Q. Had you specifically expressed that you</p> <p>23 were losing memory, that you were suffering from</p> <p>24 some kind of memory loss?</p> <p>25 A. I told Dr. Pagone about that. He wasn't</p>	<p style="text-align: right;">Page 159</p> <p>1 Trevor Burns</p> <p>2 as bad as some of the other doctors. He said they</p> <p>3 would have to do some type of tests on me, but I</p> <p>4 don't know if you qualify for the treatment. I</p> <p>5 don't know. He got some type of procedure that goes</p> <p>6 on here.</p> <p>7 Q. When was the last time that you raised a</p> <p>8 memory loss with any medical professionals?</p> <p>9 A. I don't recall exactly.</p> <p>10 Q. Do you attribute the memory loss to the</p> <p>11 headaches?</p> <p>12 A. Yeah.</p> <p>13 Q. Do you have any photographs of your</p> <p>14 injuries?</p> <p>15 A. No. They got the videotape.</p> <p>16 Q. How do you know that they have</p> <p>17 videotape?</p> <p>18 A. Because they -- well, I'm a little bit</p> <p>19 more familiar with the process than probably most</p> <p>20 guys. I been incarcerated for quite some time. Any</p> <p>21 time there's an incident that take place, they take</p> <p>22 photographs and they take a video cam. A lot of</p> <p>23 people use the video camera to replace the</p> <p>24 photographs. I'm assuming once we left out, they</p> <p>25 took video camera pictures and did whatever they did</p>
<p style="text-align: right;">Page 160</p> <p>1 Trevor Burns</p> <p>2 with them.</p> <p>3 Q. Now, were you involved in the fight that</p> <p>4 was occurring?</p> <p>5 A. Absolutely not.</p> <p>6 Q. Were you the subject of the gas being</p> <p>7 released?</p> <p>8 A. Was I the subject of the gas being</p> <p>9 released?</p> <p>10 Q. Yeah. Was it because you were involved</p> <p>11 in that?</p> <p>12 A. No, absolutely not.</p> <p>13 Q. And do you know what, you know,</p> <p>14 precipitated Nagy releasing that gas?</p> <p>15 A. Just being who he is. That's what he</p> <p>16 does.</p> <p>17 Q. What was Nagy doing immediately before</p> <p>18 he released the gas?</p> <p>19 A. What was he doing?</p> <p>20 Q. Yes.</p> <p>21 A. Obviously observing the incident that</p> <p>22 took place. That's his job. Anything that takes</p> <p>23 place that's going on in the mess hall in and he's</p> <p>24 in that particular booth, that's his job. He</p> <p>25 observes everything, everything that took place.</p>	<p style="text-align: right;">Page 161</p> <p>1 Trevor Burns</p> <p>2 Then according to -- in accordance with his</p> <p>3 training, whatever, he take the action that he's</p> <p>4 supposed to take. Some situations, you know, got to</p> <p>5 do what you got to do, but I don't believe.</p> <p>6 Q. I may have asked this before, but are</p> <p>7 you complaining of any emotional injuries from the</p> <p>8 incident of August 3rd, 2015?</p> <p>9 A. Yes.</p> <p>10 Q. What emotional injuries are you</p> <p>11 complaining of?</p> <p>12 A. Anxiety, loss of appetite. That's not</p> <p>13 actually emotional, but it -- probably. I lost a</p> <p>14 lot of weight. I'm having nightmares.</p> <p>15 Q. Now, we mentioned -- you mentioned</p> <p>16 previously the anxiety and the nightmares and that</p> <p>17 you sought counseling.</p> <p>18 A. Yeah.</p> <p>19 Q. In the past six months, have you had any</p> <p>20 counseling?</p> <p>21 A. No, I don't think so.</p> <p>22 Q. Now, you mentioned loss of appetite.</p> <p>23 When did that start?</p> <p>24 A. Immediately after the incident.</p> <p>25 Q. Can you tell me how it is that your</p>

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2 appetite changed?

3 A. Just don't want to eat no more.

4 Stressed out. Too much stress.

5 Q. How much weight did you lose?

6 A. I don't know how many pounds. I lost a

7 couple of pounds though. Quite a few actually.

8 Q. When you say "quite a few," that's how

9 much?

10 A. I was 240 or 250 at the time, and I went

11 down to 219 or 220.

12 Q. And what was the period of time that you

13 lost this weight?

14 A. I can't give you exact date but I --

15 Q. Did you lose the weight over a period of

16 six months? Over a year?

17 A. I can't give you an exact date, a year,

18 six months, I can't.

19 Q. Did you lose the weight every day, every

20 month, every week, or at what point did you reach

21 the current weight you are now?

22 A. I can't give you -- I can tell you when

23 I -- well, I can't recall.

24 Q. So you said you went from about 240

25 something to 219, so approximately 20, 25 pounds?

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2 A. Never, that I know of.

3 Q. Now, you mentioned there were two

4 inmates fighting in the mess hall. Was there any

5 other kind of altercation in the mess hall on August

6 3rd, 2015?

7 A. No.

8 Q. You're only aware of the two inmates

9 fighting?

10 A. That's it. There were so many

11 officers -- all right. Let me back up a little.

12 Give you a quick explanation of something.

13 About 40 prisoners or inmates are being

14 supervised by two officers. So there were numerous

15 officers in the mess hall at the time, and they

16 called the response. They told them break it up.

17 They stopped them immediately and they threw them on

18 the floor and handcuffed them, and that's when this

19 guy immediately pressed the button and then

20 dispensed all the gas in the mess hall.

21 Q. Now, these two inmates that were

22 fighting, did any other inmates get up from where

23 they were sitting and say anything?

24 A. No.

25 Q. Did the inmates react that were in the

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2 A. Yes.

3 Q. And you're not sure how you lost -- over

4 what period of time you lost that weight?

5 A. No.

6 Q. Now, you said that your lost appetite,

7 just didn't feel like eating. Is that certain meals

8 or something else?

9 A. No, it was the stress. I didn't want to

10 go to the mess hall. Sometimes I didn't have food

11 in my cell, if I didn't, you know, have money or if

12 my wife or family didn't send me money to purchase

13 stuff from the commissary. I'd rather stay in the

14 cell as opposed to going to the mess hall and

15 possibly having more gas dropped.

16 Q. You said you never experienced the gas

17 being dropped before, correct?

18 A. Yes.

19 Q. Since then, have you had any experience

20 with gas being dropped?

21 A. No.

22 Q. Are you aware of gas being dropped again

23 since 2015?

24 A. In this facility?

25 Q. In this facility.

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2 mess hall to the inmates fighting verbally?

3 A. No, not that I'm aware of.

4 Q. So the inmates weren't shouting,

5 egging -- let me just rephrase that.

6 Were the other inmates that were in the

7 mess hall saying anything in response to the inmates

8 that were fighting?

9 A. No.

10 Q. Were they shouting?

11 A. No, not that I recall.

12 Q. Were they trying to encourage those two

13 inmates to continue fighting?

14 A. That's possible. We were on the other

15 side. I don't know. I never heard that.

16 Q. So you're not aware of whether or not

17 the inmates who were -- the other inmates who were

18 in the mess hall reacted to the two inmates that

19 were fighting?

20 A. No, I'm aware that during the incident

21 when they were fighting, it was so many officers

22 over there, I don't know whether it was officers

23 screaming or the inmates that were fighting

24 screaming, but they were saying, "Break it up." And

25 they broke it up and it was -- to my recollection,

<p style="text-align: right;">Page 166</p> <p>1 Trevor Burns</p> <p>2 there was no one else yelling or encouraging them or</p> <p>3 encouraging anyone else to do anything other than</p> <p>4 watch what was going on. That was basically it.</p> <p>5 Q. There were no other inmates who left</p> <p>6 their seats or stood up and say -- you know, trying</p> <p>7 to make verbal noises to say carry on the fighting?</p> <p>8 A. You ain't getting out of your seat in</p> <p>9 the mess hall, no.</p> <p>10 Q. And about how long after the two inmates</p> <p>11 started fighting that these other officers came and</p> <p>12 told them to break it up?</p> <p>13 A. Immediately.</p> <p>14 Q. When you say "immediately," is that</p> <p>15 like --</p> <p>16 A. Within seconds.</p> <p>17 Q. Seconds. And how long did it take for</p> <p>18 those officers to get to where the two inmates were</p> <p>19 fighting?</p> <p>20 A. Within seconds.</p> <p>21 Q. Did you have a good vantage point to see</p> <p>22 the two inmates that were fighting?</p> <p>23 A. Yes.</p> <p>24 Q. Was there anything blocking your view of</p> <p>25 them?</p>	<p style="text-align: right;">Page 167</p> <p>1 Trevor Burns</p> <p>2 A. Aside from 15 to 20 officers that was</p> <p>3 around them.</p> <p>4 Q. And with where your table -- the table</p> <p>5 you were sitting at was positioned, you had no</p> <p>6 obstruction?</p> <p>7 A. No obstruction at all, no.</p> <p>8 Q. There were no other inmates that were --</p> <p>9 that was blocking your view?</p> <p>10 A. Everybody was sitting down.</p> <p>11 Q. And with regard to where you would pick</p> <p>12 up the food tray, where were the inmates fighting</p> <p>13 with regard to that?</p> <p>14 A. They were on the line by the window</p> <p>15 areas.</p> <p>16 Q. And was there anyone on that line?</p> <p>17 A. Yes, there was other inmates on the</p> <p>18 line.</p> <p>19 Q. What were they doing? Were they trying</p> <p>20 to encourage the other inmates to fight?</p> <p>21 A. Not that I recall that.</p> <p>22 Q. How would you describe the energy in the</p> <p>23 room? Were they excited? Were they calm? Or was</p> <p>24 something --</p> <p>25 A. Energy in the room as far as who?</p>
<p style="text-align: right;">Page 168</p> <p>1 Trevor Burns</p> <p>2 Q. The inmates.</p> <p>3 A. They just looking at the fight.</p> <p>4 Q. Was anyone saying anything?</p> <p>5 A. No, not that I recall. No, not at all.</p> <p>6 Q. What was the volume? Was it loud? Was</p> <p>7 it quiet?</p> <p>8 A. I mean, initially it was loud because</p> <p>9 guys are talking, but then everything would get</p> <p>10 quiet. Everybody look in one direction, then you</p> <p>11 know something took place. So everybody looking</p> <p>12 that direction. The officers responded and</p> <p>13 handcuffing the guys. They got them on the floor,</p> <p>14 subdued already. Next thing you know, woo, all the</p> <p>15 gas comes in.</p> <p>16 Q. Now, any other emotional or mental</p> <p>17 injuries that we haven't discussed?</p> <p>18 A. No.</p> <p>19 Q. Has your appetite improved?</p> <p>20 A. A little bit.</p> <p>21 Q. What do you mean by that?</p> <p>22 A. Goes up and down. Varies. Depends on</p> <p>23 the stress level I'm on.</p> <p>24 Q. And did you talk to your counselor about</p> <p>25 the loss of appetite?</p>	<p style="text-align: right;">Page 169</p> <p>1 Trevor Burns</p> <p>2 A. Talk to my counselor?</p> <p>3 Q. When you were seeking counseling, did</p> <p>4 you bring that up?</p> <p>5 A. Yes.</p> <p>6 Q. And what, if anything, were you told?</p> <p>7 A. Try to eat. Don't let the stress mess</p> <p>8 up your daily routine as far as your consumption of</p> <p>9 food. You need nourish, stuff like that.</p> <p>10 Q. And when you say "stress," can you tell</p> <p>11 me exactly what you were stressed about?</p> <p>12 A. My situation. I don't know whether or</p> <p>13 not I'm having residual side effects later on when I</p> <p>14 get out of here or later on in life or any future</p> <p>15 respect to what I experienced with the gas or the</p> <p>16 chemical agents that I inhaled, stuff like that, and</p> <p>17 that was in my eyes.</p> <p>18 So I was treated and issued medication,</p> <p>19 but I wasn't -- I don't believe they issued me the</p> <p>20 right treatment or if I seen the right providers.</p> <p>21 In prison, everything is limited to a certain</p> <p>22 degree. If you're not leaving out on a stretcher,</p> <p>23 they're not really going to treat you no matter what</p> <p>24 it is. Bones is completely broken.</p> <p>25 Q. So when you say you're not sure about</p>

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<p>1 Trevor Burns</p> <p>2 to, did you ever speak to anyone about the</p> <p>3 allegations in your complaint?</p> <p>4 A. No, I don't.</p> <p>5 (Whereupon, the Complaint submitted on</p> <p>6 1/28/16 was marked as Defendant's Exhibit Number A</p> <p>7 for Identification.)</p> <p>8 Q. Mr. Burns, I'm showing you what's been</p> <p>9 marked as Defendant's Exhibit A.</p> <p>10 A. Yes.</p> <p>11 Q. Do you recognize that document?</p> <p>12 A. Yes.</p> <p>13 Q. What do you recognize it to be?</p> <p>14 A. The complaint I filed against the</p> <p>15 defendants in this case.</p> <p>16 Q. Did you prepare the complaint in this</p> <p>17 action?</p> <p>18 A. Yes.</p> <p>19 Q. What day was it filed with the court?</p> <p>20 A. I don't know. It doesn't state. I</p> <p>21 don't know the exact date it was filed, but I</p> <p>22 submitted it on January 28th, 2016.</p> <p>23 Q. And prior to the complaint being filed</p> <p>24 with the court, did you review it?</p> <p>25 A. Yes.</p>	<p>1 Trevor Burns</p> <p>2 Q. And are the statements contained in the</p> <p>3 complaint true and accurate?</p> <p>4 A. Yes.</p> <p>5 Q. Did anyone assist you in preparing the</p> <p>6 complaint?</p> <p>7 A. No.</p> <p>8 Q. Did anyone tell you what had to be</p> <p>9 written into the complaint?</p> <p>10 A. No.</p> <p>11 Q. Looking at Page 5 of the complaint,</p> <p>12 allegation -- Paragraph Number 11, can you tell me</p> <p>13 what you mean by the statement, "Nagy maliciously</p> <p>14 released canisters of chemical agents that serve no</p> <p>15 justifiable penological purpose"? If I'm</p> <p>16 pronouncing it right.</p> <p>17 A. Can I tell you what I mean by that?</p> <p>18 Q. What do you mean by that?</p> <p>19 A. It didn't serve a purpose because of the</p> <p>20 guys that were fighting was already subdued, so</p> <p>21 there was nothing else or no other reason for him to</p> <p>22 release this gas or release the chemical agents</p> <p>23 aside from probably a full scale riot or something</p> <p>24 like that.</p> <p>25 Q. Are you familiar with the rationale for</p>
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<p>1 Trevor Burns</p> <p>2 why gas would be released?</p> <p>3 A. A little bit, not totally.</p> <p>4 Q. What's the basis for your information?</p> <p>5 A. Safety and security of the facility and</p> <p>6 prisoners -- I mean, facility property and officers.</p> <p>7 Q. Who's involved in the decision making</p> <p>8 for the release of the gas?</p> <p>9 A. I believe the officers' discretion --</p> <p>10 it's up to the discretion to determine whether or</p> <p>11 not the situation warrants the release of a certain</p> <p>12 amount of gas, or I believe a high-ranking official</p> <p>13 such as a sergeant, if he notifies the</p> <p>14 superintendent, and his approval or the officer of</p> <p>15 the day, that's the OD, and then he's allowed to, I</p> <p>16 guess, release it depending on the situation and</p> <p>17 circumstances.</p> <p>18 Q. Moving on to Page 6. What is your</p> <p>19 understanding of the decontamination procedures with</p> <p>20 regard to the exposure of chemical gas?</p> <p>21 A. I mean, my understanding is that</p> <p>22 initially when anyone is subjected to the amount of</p> <p>23 gas that I was subjected to, it's the duty of the</p> <p>24 officer that's in charge to immediately allow</p> <p>25 prisoners or inmates to see medical staff and</p>	<p>1 Trevor Burns</p> <p>2 medical personnel, and they have a particular</p> <p>3 process in which to ensure that you're not harmed</p> <p>4 further as a result of the gas or the residue of the</p> <p>5 gases being on your body.</p> <p>6 So my understanding is you're supposed</p> <p>7 to immediately be taken to a shower or perhaps some</p> <p>8 type of agent -- not agent, but some type of wash on</p> <p>9 your body and your eyes, stuff like that, as opposed</p> <p>10 to them just sitting for hours or whenever they can</p> <p>11 get a chance to see you.</p> <p>12 Q. Is the evacuation of the inmates from</p> <p>13 the area where the gas was released into a neutral</p> <p>14 environment not the start of the contamination</p> <p>15 process?</p> <p>16 A. Actually, I don't know that, but I'm</p> <p>17 trying to ascertain that information, but that's</p> <p>18 like safety and security. So I don't -- I can't</p> <p>19 give you an answer with respect to that.</p> <p>20 Q. And looking at Number 18 on Page 6,</p> <p>21 beginning with "Tokarz ordered Burns to proceed to A</p> <p>22 and B yard," can you tell me how that order was</p> <p>23 communicated to you?</p> <p>24 A. Told us to go to A and B yard.</p> <p>25 Everybody move and move to the A and B yard.</p>

<p style="text-align: right;">Page 198</p> <p>1 Trevor Burns</p> <p>2 Q. Did he say that to you directly?</p> <p>3 A. He said it to me directly, everybody</p> <p>4 else that was on the wall at the time.</p> <p>5 Q. And about where were you located from</p> <p>6 him?</p> <p>7 A. Not too far. A few feet away. We all</p> <p>8 have to walk by him any way so --</p> <p>9 Q. Was he facing you at the time he said</p> <p>10 this?</p> <p>11 A. Yes.</p> <p>12 Q. And did you give any kind of</p> <p>13 acknowledgment that you had heard his order?</p> <p>14 A. Yeah. I'm trying to talk him. He</p> <p>15 doesn't want to hear nobody.</p> <p>16 Q. Did you tell him that you were</p> <p>17 experiencing any kind of difficulties?</p> <p>18 A. Everybody -- I know I was. I was one of</p> <p>19 the few that was kind of relaying this information</p> <p>20 to him, but he didn't want to hear that. Plus the</p> <p>21 guy has a gun pointed at us, and the officers around</p> <p>22 us with sticks, so you're not really trying to get</p> <p>23 too out of order to talk to a lieutenant.</p> <p>24 Q. But when you say you're trying to relay,</p> <p>25 I'm trying to understand if this was a one-on-one</p>	<p style="text-align: right;">Page 199</p> <p>1 Trevor Burns</p> <p>2 conversation with Lieutenant Tokarz?</p> <p>3 A. It's not actually a one-on-one personal</p> <p>4 conversation, but it's like a passing by. You're</p> <p>5 trying to express what's going on, what you're going</p> <p>6 through, and he's basically not trying to hear it.</p> <p>7 So he say -- for us acting like, yo, I need to see</p> <p>8 the nurse, doc, you'll see them, go, A and B yard,</p> <p>9 proceed to A and B yard. You got the guidance tower</p> <p>10 pointing a gun. You got officers around us with</p> <p>11 sticks. That was --</p> <p>12 Q. Then you had other inmates that were</p> <p>13 also evacuating into the yard?</p> <p>14 A. Yes, at the same time.</p> <p>15 (Recess taken at 2:57 p.m. and resumed</p> <p>16 at 3:01 p.m.)</p> <p>17 Q. Moving on to Defendant's Exhibit A, Page</p> <p>18 7. You said that Shaw refused to call the emergency</p> <p>19 response in Paragraph 24, but stated that he would</p> <p>20 call on the phone. How did you know that he</p> <p>21 refused?</p> <p>22 A. He was right there. He said I'm not</p> <p>23 calling. When him and the other officer witnessed</p> <p>24 me, you know, regain consciousness, standing right</p> <p>25 there, he said I'm not calling. But then he walk</p>
<p style="text-align: right;">Page 200</p> <p>1 Trevor Burns</p> <p>2 away laughing to my -- oh, big guy wanted me to</p> <p>3 call, but he never called.</p> <p>4 Q. Are you saying that he never called on</p> <p>5 the phone?</p> <p>6 A. No, on the walkie-talkie. I don't know</p> <p>7 whether he called on the phone or not, but they said</p> <p>8 they wasn't going to see me, so obviously he didn't,</p> <p>9 because everybody else that requested medical</p> <p>10 treatment and asked them to call, they were</p> <p>11 receiving responses, emergency responses, and people</p> <p>12 were coming in to see them. So I asked for the same</p> <p>13 thing. They didn't give it to me.</p> <p>14 Q. Who were these other people that were</p> <p>15 getting this response? What are their names?</p> <p>16 A. One were -- I don't know. I think you</p> <p>17 have one of the documents redacted in a log that you</p> <p>18 have in your response. I know it says that, but I</p> <p>19 don't know if he actually called.</p> <p>20 Q. When you say "hours later," can you tell</p> <p>21 me what time frame you're talking about on 25?</p> <p>22 A. Hours later with respect to what?</p> <p>23 Q. "Shaw told the company correction</p> <p>24 officer to inform me that medical could not see me</p> <p>25 until tomorrow." What's "hours later"?</p>	<p style="text-align: right;">Page 201</p> <p>1 Trevor Burns</p> <p>2 A.. Oh, this was hours after I initially</p> <p>3 asked the officer to assist me and the officer asked</p> <p>4 Shaw to call the response, and he denied to do so.</p> <p>5 This was about three to four hours later.</p> <p>6 Q. But on the same day, August 3rd?</p> <p>7 A. On the same day, August 3rd, yes.</p> <p>8 Q. And I believe your testimony is that you</p> <p>9 saw a medical professional that next day?</p> <p>10 A. Yes.</p> <p>11 Q. And, again, had Shaw witnessed you</p> <p>12 experiencing any of the symptoms that you talked</p> <p>13 about, the fainting, vomiting?</p> <p>14 A. No. He knew because the officer that</p> <p>15 was on the company conveyed it to him. Plus he seen</p> <p>16 the vomit and stuff right there in front of my cell.</p> <p>17 He seen --</p> <p>18 Q. How do you know he saw it?</p> <p>19 A. Like how you're sitting there, that's</p> <p>20 how close we were. I'm just inside the cell.</p> <p>21 Q. So was it a face-to-face?</p> <p>22 A. Face-to-face, exactly.</p> <p>23 Q. And the vomit, where was that located?</p> <p>24 A. Right on the floor in the cell.</p> <p>25 Q. And about how much vomit was there?</p>

<p style="text-align: right;">Page 202</p> <p>1 Trevor Burns</p> <p>2 A. I don't know.</p> <p>3 Q. Going on to Page 8, Paragraph 30, you</p> <p>4 mentioned that Griffin conducted a diligent thorough</p> <p>5 review. Can you tell me how you're aware of that?</p> <p>6 A. That's the process in which it's done.</p> <p>7 I received a few responses from people that --</p> <p>8 officers that he actually had conduct some of the</p> <p>9 review, and that's basically what he did was a</p> <p>10 thorough review of the information that I had and</p> <p>11 questioning the witnessed that I'm aware of.</p> <p>12 I wasn't actually sitting there with</p> <p>13 him, but based upon the response from the officers</p> <p>14 that was dispatched to go ascertain information to</p> <p>15 give it to him so he could make the ultimate</p> <p>16 determination of whether or not my allegations could</p> <p>17 be substantiated, you know, that's basically how I</p> <p>18 concluded that it was a thorough review, because</p> <p>19 normally they don't do that. You won't hear</p> <p>20 nothing.</p> <p>21 Q. And then 31, the final paragraph, you</p> <p>22 talked about the assault -- Nagy being accused of</p> <p>23 assault and that Griffin was aware. How do you know</p> <p>24 he was aware of that incident?</p> <p>25 A. Because the grievance was filed against</p>	<p style="text-align: right;">Page 203</p> <p>1 Trevor Burns</p> <p>2 him or grievances with respect to the guy in A-Block</p> <p>3 that was assaulted. Family that was called to the</p> <p>4 facility actually knew a guy that used to hang out</p> <p>5 with him that said his family called Superintendent</p> <p>6 Griffin within days and so and so forth, and</p> <p>7 obviously he was aware of it, at least, at a</p> <p>8 minimum.</p> <p>9 Q. How do you know he was aware?</p> <p>10 A. Because according to the grievance</p> <p>11 policy and procedure, when there's a Code 49, it</p> <p>12 goes directly to the superintendent. So it's his</p> <p>13 obligation to review it personally and investigate</p> <p>14 it or send it to OSI or take further action. So if</p> <p>15 someone alleges complaints of assaults or sexual</p> <p>16 activities or something like that, then it goes</p> <p>17 directly to him for his review. So he has to review</p> <p>18 it. That's his capacity. That's his job.</p> <p>19 Q. Do you have any evidence that he was</p> <p>20 actually involved?</p> <p>21 A. Who?</p> <p>22 Q. The superintendent.</p> <p>23 A. That he was actually involved with --</p> <p>24 Q. That he was -- he actually reviewed that</p> <p>25 grievance.</p>
<p style="text-align: right;">Page 204</p> <p>1 Trevor Burns</p> <p>2 A. With the guy that was jumped or</p> <p>3 whatever, allegedly jumped in A-Block?</p> <p>4 Q. Yes.</p> <p>5 A. According to -- I mean, I concluded</p> <p>6 that. I can't say I have actual proof on that.</p> <p>7 Q. What was the name of the inmate that was</p> <p>8 in A-Block?</p> <p>9 A. I don't recall his name.</p> <p>10 Q. And you mentioned -- you allege in</p> <p>11 Paragraph 31 that Griffin failed to remedy the</p> <p>12 malfeasant. What do you mean by that?</p> <p>13 A. He failed to remedy the misconduct on</p> <p>14 the 16th or, at least, after that. I mean, he could</p> <p>15 have -- basically on August 3rd when Nagy released</p> <p>16 the chemicals, so on and so forth, this guy has a</p> <p>17 history -- you're not aware of this, but he has a</p> <p>18 history of abuse throughout the entire facility. I</p> <p>19 made him aware of it, this guy's behavior's, his</p> <p>20 misconduct. The guy that was jumped a few days</p> <p>21 later made them aware of Nagy's misconduct, and he</p> <p>22 failed to, at least, try to curb it or tell him,</p> <p>23 Listen, guy, you can do this. This is prison. You</p> <p>24 know, we're not conducting an abuse camp here. So</p> <p>25 he basically fostered the policy and procedures of</p>	<p style="text-align: right;">Page 205</p> <p>1 Trevor Burns</p> <p>2 this officer that let him run roughshod throughout</p> <p>3 the entire prison without telling him you can't do</p> <p>4 that.</p> <p>5 Q. And how do you know that he's never had</p> <p>6 any kind of conversation or any kind of</p> <p>7 communication with Nagy about his conduct?</p> <p>8 A. Because he continued to do it. I mean,</p> <p>9 obviously, if your superior tells you, Listen, you</p> <p>10 can't do this, you should do that, and then you</p> <p>11 continue to do it, obviously you didn't have no type</p> <p>12 of -- no conversation, or I'm assuming that he would</p> <p>13 adhere to, you know. So I mean, I can't give you</p> <p>14 definitive answers, but I can conclude that based</p> <p>15 upon his actions as opposed to, you know, saying</p> <p>16 that I know for a fact like I was sitting there. I</p> <p>17 wasn't sitting there, so I don't know what he said</p> <p>18 or what he didn't say.</p> <p>19 Q. Have any of the allegations of</p> <p>20 misconduct that you know of against Officer Nagy</p> <p>21 ever been substantiated by the department of</p> <p>22 corrections and the supervision? I'm trying to say</p> <p>23 the whole thing.</p> <p>24 A. No.</p> <p>25 Q. And Number 32, you said that Griffin was</p>

<p style="text-align: right;">Page 206</p> <p>1 Trevor Burns</p> <p>2 continuously placed on notice, and what's the basis</p> <p>3 for that allegation?</p> <p>4 A. At a minimum, my grievance that was</p> <p>5 filed on April 16th for the incident that took place</p> <p>6 in A-Block, but there were various other grievances</p> <p>7 filed by other inmates with respect to this</p> <p>8 particular officer as far as his actions, his</p> <p>9 misbehavior, his ongoing abuse that he asserts on a</p> <p>10 regular basis, at least, out at the facility, so</p> <p>11 that's what my basis for saying that is.</p> <p>12 Q. Then you said that Griffin failed -- you</p> <p>13 allege that Griffin failed to take corrective action</p> <p>14 and instead fostered the unconstitutional policy and</p> <p>15 practices of Nagy. And how did he do that? How did</p> <p>16 Griffin do that?</p> <p>17 A. How did he personally do it?</p> <p>18 Q. How did --</p> <p>19 A. He failed to -- exactly what it states.</p> <p>20 He failed to curb this guy's conduct. I believe</p> <p>21 that he's in a position to tell him, Listen, don't</p> <p>22 do this no more, or I'm going to discipline you.</p> <p>23 And I believe had he done so, he would not have</p> <p>24 took -- taken certain actions that he took in the</p> <p>25 future subsequent to April 16th that at a minimum</p>	<p style="text-align: right;">Page 207</p> <p>1 Trevor Burns</p> <p>2 might -- 2015, so he's definitely in a position to</p> <p>3 curb. He could have moved him to another facility,</p> <p>4 put him in another post, or at least kept him away</p> <p>5 from a whole bunch of prisoners or inmates in which</p> <p>6 he seemed to have a significant problem, and he's</p> <p>7 always being accused of something. So obviously he</p> <p>8 had the power and authority to tell him or move him</p> <p>9 in a different position or at least curb his</p> <p>10 actions.</p> <p>11 Q. Now, you mentioned that the grievance</p> <p>12 that you filed and the other inmates about this</p> <p>13 incident was investigated or forwarded to OSI?</p> <p>14 A. Yes.</p> <p>15 Q. What was the result of that</p> <p>16 investigation?</p> <p>17 A. I don't know.</p> <p>18 Q. Did you ever talk to anyone from OSI</p> <p>19 about the allegations?</p> <p>20 A. No.</p> <p>21 Q. You were never interviewed by anyone</p> <p>22 from OSI?</p> <p>23 A. No.</p> <p>24 Q. Do you know anyone who was interviewed</p> <p>25 by OSI?</p>
<p style="text-align: right;">Page 208</p> <p>1 Trevor Burns</p> <p>2 A. No.</p> <p>3 Q. Now, in the complaint, you mentioned a</p> <p>4 possibility of losing your vision. Who, if anyone,</p> <p>5 told you about that?</p> <p>6 A. The doctor, the medication that I took.</p> <p>7 Q. What medication?</p> <p>8 A. I don't know the -- I don't recall the</p> <p>9 name. I have to review my medical file to give you</p> <p>10 answers as far as medications. That some of the</p> <p>11 side effects to being exposed to the gas and</p> <p>12 possible side effects of the medication.</p> <p>13 Q. And we keep talking about this gas. Do</p> <p>14 you know what exactly the gas is composed of?</p> <p>15 A. That's what I'm trying to get from you.</p> <p>16 I don't know.</p> <p>17 Q. Do you have any handwritten records</p> <p>18 regarding the incident complained of in this action?</p> <p>19 A. No.</p> <p>20 Q. Is there anything else that you would</p> <p>21 like to add which involves your claim which we have</p> <p>22 not discussed today?</p> <p>23 A. No.</p> <p>24 Q. Why are you suing Officer Nagy?</p> <p>25 A. For violating my constitutional rights.</p>	<p style="text-align: right;">Page 209</p> <p>1 Trevor Burns</p> <p>2 Q. And how did he do that?</p> <p>3 A. By using excessive force against me.</p> <p>4 Q. How did he use excessive force?</p> <p>5 A. By releasing chemical agents for no</p> <p>6 justifiable penological purpose.</p> <p>7 Q. How do you know that there was no</p> <p>8 justifiable penological purpose?</p> <p>9 A. Because I'm familiar with cases and</p> <p>10 reasons why officers are supposed to use a certain</p> <p>11 amount of force. He used excessive force. That was</p> <p>12 unnecessary. Guys was already secured, handcuffed.</p> <p>13 They posed no threat to the safety and security of</p> <p>14 probably anyone, and he just start pressing buttons</p> <p>15 and released the whole entire arsenal of gas upon</p> <p>16 the entire mess hall.</p> <p>17 Q. Were any other inmates besides the two</p> <p>18 that we discussed violent?</p> <p>19 A. No, not at all.</p> <p>20 Q. Did you have any kind of -- could you</p> <p>21 see what was going on in the hallway?</p> <p>22 A. In the hallway?</p> <p>23 Q. Yeah, that was outside the mess hall.</p> <p>24 A. No.</p> <p>25 Q. Why are you suing Officer Shaw?</p>

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<p>1 Trevor Burns</p> <p>2 A. Deliberate indifference to a serious</p> <p>3 medical need. I had a serious medical need. He</p> <p>4 didn't allow me to seek medical staff.</p> <p>5 Q. And how was he deliberately indifferent?</p> <p>6 A. He basically deprived me access to the</p> <p>7 medical staff. He was in a position to allow me to</p> <p>8 go see and see them or at least inform them</p> <p>9 personally, but he failed to do so while other guys</p> <p>10 were going to see medical.</p> <p>11 Q. What was the serious medical need?</p> <p>12 A. Everything. My eyes. I was throwing</p> <p>13 up. I fainted, or I fell unconscious. I had sharp</p> <p>14 excruciating pain in my back, my forearm, my wrist,</p> <p>15 everything.</p> <p>16 Q. And was Officer Shaw aware of all that</p> <p>17 you just listed?</p> <p>18 A. Obviously he was aware of most of it.</p> <p>19 Q. What was he aware of?</p> <p>20 A. I can't tell you. I got to ask him</p> <p>21 that. I don't know.</p> <p>22 Q. Why are you suing Lieutenant Tokarz?</p> <p>23 A. Same situation. I mean, it was</p> <p>24 basically deliberate indifference to my medical</p> <p>25 need. I was just subjected to significant amount of</p>	<p>1 Trevor Burns</p> <p>2 chemical agents. I was trampled. Instead of</p> <p>3 allowing me to see medical or at least adhering to</p> <p>4 my requests that I made to him, he decided to issue</p> <p>5 threats or tell officers to take certain actions</p> <p>6 against us if we take our hands off the wall and</p> <p>7 failed to decontaminate within, I believe, a</p> <p>8 reasonable time frame.</p> <p>9 Q. What would be a reasonable time frame?</p> <p>10 A. I would have to retrieve some</p> <p>11 information from you and review the documents before</p> <p>12 I can give you an answer. I know it's more -- less</p> <p>13 than an hour if you're subjected to a significant</p> <p>14 amount. It's not like just it's a little bit of --</p> <p>15 what is it? -- a spray they use on you. I don't</p> <p>16 know the name of it. Any type of little chemical</p> <p>17 spray. I mean, it's a whole -- three, six, nine --</p> <p>18 it's like sixty canisters in a small area, in an</p> <p>19 enclosed area, so it's different that far from being</p> <p>20 outside and being subjected to tear gas when you can</p> <p>21 just run away from it. You just stuck in there.</p> <p>22 Q. And how much of that gas that was</p> <p>23 released actually came on to you?</p> <p>24 A. A significant amount.</p> <p>25 Q. What do you mean "a significant amount"?</p>
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<p>1 Trevor Burns</p> <p>2 A. A whole bunch. All right. I can give</p> <p>3 you an example, like someone threw some baby powder</p> <p>4 on you, a cup of baby powder and you can see the</p> <p>5 residue and all that on my clothes. So that's how</p> <p>6 much I was subjected to, at least to my</p> <p>7 approximation.</p> <p>8 Q. And when you entered the yard, the C and</p> <p>9 D yard, could you see the residue that was on you?</p> <p>10 A. Everybody, Miss Dawkins. The whole</p> <p>11 thing -- not the whole entire incident, but when we</p> <p>12 came out of the mess hall after I was trampled on</p> <p>13 and we proceeded to C and D yard, the officers have</p> <p>14 video-held camcorders. So everything I'm saying,</p> <p>15 you will see my whole face, you will see my face is</p> <p>16 white and my clothes is white. You will see</p> <p>17 everything on camera.</p> <p>18 When we left out -- when we went out of</p> <p>19 the yard, they had the camcorders, and they recorded</p> <p>20 every man that left out of the mess hall and into</p> <p>21 that yard, and they also had cameras on top of the</p> <p>22 tower, so it's not like something I'm just making</p> <p>23 up. You can see for yourself.</p> <p>24 Q. Then you said that he was deliberately</p> <p>25 indifferent to your serious medical need. What</p>	<p>1 Trevor Burns</p> <p>2 medical need are you talking about?</p> <p>3 A. My wrist, my back, I couldn't breathe.</p> <p>4 I said problems breathing. At the time, my eyes</p> <p>5 were stinging. I was in pain as far as my eyes.</p> <p>6 Pounding headaches. I wanted to see somebody</p> <p>7 basically, at least to try to get some of the</p> <p>8 residue from the chemicals off my body, at least</p> <p>9 give me that much, but he didn't do it immediately.</p> <p>10 He waited for whatever reason or intentionally</p> <p>11 waited. I believe it was intentional, and that was</p> <p>12 basically it.</p> <p>13 Q. And what's the basis for your belief</p> <p>14 that it was intentional?</p> <p>15 A. Because he's telling the guy in the</p> <p>16 tower, despite the fact that we had nothing to do</p> <p>17 with the incident in the mess hall or at least the</p> <p>18 majority of us wasn't involved in no altercation</p> <p>19 with each other, you telling the guy in the tower,</p> <p>20 Take them down if they put their hands off the wall.</p> <p>21 And he's pointing the AR-15 at guys that's not</p> <p>22 involved in none of this.</p> <p>23 Q. And what do you mean by "take them</p> <p>24 down"?</p> <p>25 A. I don't know. If you pointing a gun at</p>

<p style="text-align: right;">Page 214</p> <p>1 Trevor Burns</p> <p>2 me, if I take my hands off the wall, I can't tell</p> <p>3 you what it means. So the guy's pointing a gun.</p> <p>4 You got the officers standing behind us with their</p> <p>5 sticks in a threatening manner. He's saying, Take</p> <p>6 them down if they take their hands off the wall. So</p> <p>7 no matter what pain or injuries you sustained, you</p> <p>8 better keep your hands on that wall or you might get</p> <p>9 something you really don't want.</p> <p>10 Q. How would you describe the situation</p> <p>11 that was happening inside the rec yard?</p> <p>12 A. It was traumatic, man. Someone never</p> <p>13 experienced this. It's frightening to a certain</p> <p>14 degree. I know it's prison. A guy supposed to be</p> <p>15 ultimately bad guys and tough and so on and so</p> <p>16 forth, but it's scary when you just -- when you were</p> <p>17 just subjected to some chemicals and now you're in a</p> <p>18 lot of pain like I was, and you're being threatened</p> <p>19 with a gun at your back with a marksman in the</p> <p>20 tower. So that's basically --</p> <p>21 Q. Would you describe it as being chaotic</p> <p>22 in the yard?</p> <p>23 A. No. It was -- everything was in an</p> <p>24 orderly fashion. It wasn't chaotic. They had</p> <p>25 everything --</p>	<p style="text-align: right;">Page 215</p> <p>1 Trevor Burns</p> <p>2 Q. So as people were coming out of that</p> <p>3 corridor into the C and D yard, how were they</p> <p>4 getting in there? Were they doing it in an orderly</p> <p>5 fashion? Were they lined up and walking?</p> <p>6 A. No. It wasn't lined up. Okay. After</p> <p>7 the big pileup coming out of the mess hall, there</p> <p>8 were additional officers stationed by C and D yard</p> <p>9 and through that little corridor area to enter the</p> <p>10 yard. And once guys running toward that area, they</p> <p>11 will instruct you, "Slow down," "Go this way," "Walk</p> <p>12 this way." And they got the guys standing right</p> <p>13 outside of the door -- or inside of the door with</p> <p>14 the camcorder, and you go by and look at you. Then</p> <p>15 you have the lieutenant standing right there and</p> <p>16 he's instructing people what to do. So everything</p> <p>17 was basically in an orderly fashion from that point.</p> <p>18 Now, from inside the mess hall to the</p> <p>19 second deployment of the gas that this officer</p> <p>20 released, it was panic. It was total chaos. Even</p> <p>21 the officers were running, falling, sergeants,</p> <p>22 everybody is running down there.</p> <p>23 So once we got in that corridor,</p> <p>24 everything was basically in an orderly fashion.</p> <p>25 Inside the mess hall was panic. Coming out, panic.</p>
<p style="text-align: right;">Page 216</p> <p>1 Trevor Burns</p> <p>2 Corridor, orderly fashion. Once we enter the yard,</p> <p>3 everything was basically in an orderly fashion.</p> <p>4 Q. After you entered the rec yard, were</p> <p>5 there other inmates that came in after you?</p> <p>6 A. Yeah, before and after.</p> <p>7 Q. Now, was Lieutenant Tokarz aware of the</p> <p>8 symptoms and conditions that you explained earlier?</p> <p>9 A. I think so, yes.</p> <p>10 Q. How was he aware?</p> <p>11 A. I mean, he could see it. Obviously he's</p> <p>12 aware or he was just -- or he just disregarded it to</p> <p>13 a certain degree, but I tried -- like I said, I</p> <p>14 tried to convey to him, you know, certain things as</p> <p>15 far as what I was experiencing. He was not trying</p> <p>16 to hear it. Keep walking, move, go this way, so and</p> <p>17 so forth, so, you know, that's --</p> <p>18 Q. And he was positioned at the entrance to</p> <p>19 that yard or someplace else?</p> <p>20 A. Initially he was at the entrance, but</p> <p>21 then we were like told toward the phone area, to the</p> <p>22 D-Block corridor, and we followed that area, and</p> <p>23 after that area, he was kind of like behind us near</p> <p>24 the television area.</p> <p>25 Q. And what was he doing?</p>	<p style="text-align: right;">Page 217</p> <p>1 Trevor Burns</p> <p>2 A. Couple feet behind us. He's directing</p> <p>3 the officers what to do, telling them what to do,</p> <p>4 move them back, running -- I mean, walking back</p> <p>5 forth, issuing directions and orders to the inmates</p> <p>6 and officers alike what to do.</p> <p>7 Q. Was he the only lieutenant that was in</p> <p>8 that area?</p> <p>9 A. The only lieutenant that I seen, yes.</p> <p>10 Q. Why are you suing Superintendent</p> <p>11 Griffin?</p> <p>12 A. Because he failed to remedy a wrong,</p> <p>13 failed to manage the subordinates. He's in a</p> <p>14 supervisory position that was personally involved</p> <p>15 with the incident by failing to curb the actions of</p> <p>16 Nagy. He basically enforced his actions and allowed</p> <p>17 unconstitutional practices to continue while --</p> <p>18 despite the numerous complaints being submitted to</p> <p>19 him, so I believe he should have been at least more</p> <p>20 so hands-on with respect to disciplining his</p> <p>21 officers once he was aware and had the power to do</p> <p>22 so.</p> <p>23 Q. And when you said that there were</p> <p>24 numerous complaints, what number are you referring</p> <p>25 to?</p>

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ERRATA SHEET			
NAME OF CASE: Trevor Burns -v- Thomas Griffin, et al			
DATE OF DEPOSITION: April 28, 2017			
NAME OF DEPONENT: Trevor Burns			
PAGE	LINE(s)	CHANGE	REASON
151	13	I developed excruciating nasal and throat infection.	Did not recall at time of deposition
152	17	Excruciating nasal and throat infection requiring antibiotics	Did not recall at time of deposition
32	6	Nightmares, anxiety, stress disorder, mental anguish, and mental distress	Did not recall at time of deposition
210	15	developed nasal and throat infection requiring antibiotics	Did not recall at time

Trevor Burns

Trevor Burns

Subscribed and Sworn to Before Me

This 23 Day of May, 2017.

[Signature] 5/18/2019

(Notary Public) My commission expires:

